

Emergency Rule

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

EMERGENCY AMENDMENT

13 CSR 35-73.012 Basis for Licensure and Licensing Procedures.

The division is amending sections (2)-(4), and (6), and deleting the proceeding forms as they are being incorporated by reference.

PURPOSE: The purpose of the emergency amendment to this rule is to update the procedures for applying for a license to operate a Child Placing Agency in Missouri, and to ensure that the regulations are in compliance with the new requirements of HB 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required Background Checks required in §210.493 RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(2) Application for Licensure.

(A) *[The application for license shall be completed by the officers of the governing board of the child placing agency, or its authorized representative, on a form prescribed and furnished by the division and shall be forwarded to the division.] To apply for a license to operate a Child Placing Agency*

Missouri the individual legally authorized to act on behalf of the Child Placing Agency shall file an application with the division on forms provided by the division.

1. The application forms are published on the division’s website, and are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children’s Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65103, and on the web at <https://www.dss.mo.gov/provider-services/children/residential-program/child-placing.htm>. October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The Child Placing Agency shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The Child Placing Agency shall submit the form with supplementary materials to the division by e-mail at the following e-mail address CD.CHILDPLACINGAPPS@dss.mo.gov.

2. The application form shall be signed by the legally authorized representative of the Child Placing Agency. The division will accept electronic signatures (e-signatures).

3. The Child Placing Agency may apply to the division for permission to submit its application and supporting documentation by mail or private delivery services rather than e-mail when there are unusual, compelling and extenuating circumstances which make submission by e-mail impossible. The Child Placing Agency shall apply for permission to file the materials with the division in writing, and shall explain the circumstances why it cannot submit the materials by e-mail. The Child Placing Agency shall attach all documentation that may be necessary to complete the required notification. If the division grants permission under this subsection the LERCF may submit the form with supporting materials by mail, by private delivery service or in person to the offices of the division at Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65102; or by e-mail to CD.CHILDPLACINGAPPS@dss.mo.gov.

(B) An agency shall submit the following documents to the division along with the application:

1. Documentation of the legal basis for operation;
2. A certified copy of the current Articles of Incorporation;
3. A copy of the current by-laws;
4. A list of the names and addresses of the current members of the governing board and a notarized letter of acceptance from each;
5. A completed personnel report on a form prescribed by the division;
6. Verification of the education, experience, and character of the administrator, all professional staff, and all contracted personnel;
7. Verification of a physical examination for all staff working directly with children, completed by a licensed physician or a registered nurse who is under the supervision of a licensed physician;
8. *[Results of a check of the Child Abuse and Neglect Central Registry Unit (CA/N CRU) for all staff and volunteers] Certification that all individuals who are required to complete a Background Check are eligible for employment or presence at the Child Placing Agency as required in §210.493 RSMo and 13 CSR 35-71.015 ;*
9. *[A criminal records check for each employee from a state law enforcement agency;]*
- 10.9. A chart depicting the agency’s organizational structure and lines of supervision;
- 11.10. A proposed budget for a period of not less than twelve (12) months duration which shows both anticipated expenses and income for the period;
- 12.11. An itemized schedule of all fees to be assessed to applicants;
- 13.12. Verification of availability of not less than ninety (90) days operating capital;

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[14.]13. A copy of the Civil Rights Agreement signed by the president of the governing board or the agency director;

[15.]14. An outline of the agency's proposed program and the specific geographic area to be served (this shall be directly related to the number of staff and the geographic area to which it can actually provide services);

[16.]15. A projected staffing plan for the anticipated capacity and programming of the agency;

[17.]16. A written statement clearly setting forth the authority and responsibilities delegated to a director, administrator, or supervisor, if other than the owner. When the responsibility for the operation of an agency rests with the governing board, that governing board shall establish written policies and procedures which clearly establish the lines of responsibility governing the operation of the agency. These shall include a statement of the kind and extent of authority delegated to the director employed to carry out the program;

[18.]17. A written description of intake policies which delineates the types of services to be provided, specific programs offered, and the methods of care and treatment to be provided;

[19.]18. Job title, job description, and minimum qualifications for all staff;

[20.]19. Written child abuse and neglect reporting policy;

[21.]20. Written personnel practices, including staff training and orientation;

[22.]21. Written discipline policy for children in care;

[23.]22. Written visitation policy for children in care;

[24.]23. Written health care policy for children in care which shall include preventive, medical, eye, hearing, and dental care;

[25.]24. A written statement of any religious practices or religious restrictions;

[26.]25. A written plan for all foster parent training; and

[27.]26. Proof of professional and commercial general liability insurance.

(C) **The application shall be complete when the Child Placing Agency has submitted and the division has received a fully completed application form and all necessary supporting documentation.**

(D) A new application shall be filed—

1. If the agency fails to follow through with completing the requirements for licensure within six (6) months of initial application;

2. When an application for licensure has been withdrawn, and the agency seeks to reapply;

3. When there is a change of ownership or corporate status of the agency;

4. When the division has revoked or refused to renew a license, and a new license is sought; *and* **or**

5. When a license or application has been voluntarily surrendered or withdrawn by the applicant.

(3) Licensing Assessment.

(A) **After the application is complete the division will conduct a thorough assessment of the agency [shall be made by the division],** including a review of the documents required in this rule and visits to the agency to determine compliance with the licensing law and applicable rules.

(B) If an applicant for licensure is determined not to be in compliance with the licensing law and applicable rules, and if compliance is not achieved within a six- (6-) month period, a new Application for Licensure must be filed if the agency desires to pursue licensure.

(4) The License.

(A) Upon determination of compliance with the licensing law and applicable rules, the director shall issue a license for an initial six- (6-) month probationary term.

(B) Following the probationary period, upon determination of continued compliance with Missouri statutes and applicable licensing rules, the director shall extend the term of the license for a period not to exceed two (2) years.

(C) The license shall be posted in a conspicuous place on the premises of the facility.

(D) The license shall reference specific category of service(s) the agency is authorized to provide.

(E) The license shall not be transferable and applies only to the agency to whom it is issued.

(6) Licensing Renewal.

[(A) Application forms for renewal of licensure shall be mailed to the child placing agency by the division at least sixty (60) days prior to the expiration of the license.]

*[(B)](A) The Child Placing [a]Agency shall complete and return the application to the division [thirty (30)] sixty (60) days prior to the expiration of the current license. **The Child Placing Agency shall utilize the forms indicated in paragraph (2)(A)1. of this regulation to initiate the license renewal process. The Child Placing Agency shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The Child Placing Agencies shall submit the form with supplementary materials by e-mail to the division to the following e-mail address: CD.CHILDPLACINGAPPS@dss.mo.gov. The application form shall be signed by the Director of the Child Placing Agency or the Director's authorized designee. The division will accept electronic signatures.***

[(C)](B) The division shall initiate action on the completed application prior to the expiration of the existing licensure period.

[(D)](C) When an agency has made timely and sufficient application for renewal of a license, and the division fails to render a decision on the application for renewal of the license prior to the expiration date on the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final decision of the division has been made. The division may further extend the period in which such decision must be made in individual cases for up to thirty (30) additional days, if good cause is shown.

*[(E)](D) In addition to the completed renewal application, the **Child Placing Agency shall [following documents shall be] submit[ted] the following documentation with the application:***

1. Verification of a biennial physical examination, completed by a licensed physician, registered nurse who is under the supervision of a licensed physician, or an advanced practice nurse in a collaborative agreement with a licensed physician for all staff working directly with children (see 13 CSR 35-73.030(3)(A));

2. A current governing board roster, with officers identified, including the addresses and a notarized letter of acceptance from each member;

3. A summary of any significant changes to programs and copies of any resulting policies or policy changes;

4. A copy of the current organizational chart;

5. A completed personnel report on a form prescribed by the division;

6. **Certification that all individuals who are required to submit to a Background Check have completed their Background Checks and have been found eligible by the division for employment or presence at the Child Placing Agency as provided in §210.493 and 13 CSR 35-71.015**

7. Results of an annual check of the Child Abuse and Neglect CRU for all staff, contracted personnel, and volunteers working with children;

7.8. Results of the annual criminal records check for all staff, contracted personnel, and volunteers working with children;

8.9. A copy of a biennial financial audit and evaluation of the financial soundness of the operation conducted by a certified public

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accountant not employed by the agency;

[9.]/10. A copy of the budget for the current calendar or fiscal year;

[10.]/11. A statistical report on a form supplied by the division;

[11.]/12. A list of the names and addresses of all current foster homes licensed by the agency;

[12.]/13. An annual written plan for all foster parent training;

[13.]/14. A written plan indicating how the agency will provide for the transfer of records on both open and closed cases in the event the agency closes;

[14.]/15. An annual program evaluation;

[15.]/16. An itemized schedule of all fees to be assessed to applicants; and

[16.]/17. Copies of all written agreements (contracts) for the adoption process.

[(F)](E) When an agency has made timely and sufficient application for renewal of a license, and the division fails to render a decision on the application for renewal of the license prior to the expiration date on the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final decision of the division has been made. The division may further extend the period in which such decision must be made in individual cases for up to thirty (30) additional days, if good cause is shown.

(F) Upon determination of compliance with the licensing law and applicable rules, the director shall issue a license for a period not to exceed two (2) years.

*AUTHORITY: sections 207.020, 210.506 and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.012. Original rule filed Feb. 6, 1997, effective July 30, 1997. Moved to 13 CSR 35-73.012 and amended: Filed Aug. 20, 2018, effective April 30, 2019. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. An emergency amendment and a proposed amendment covering this same material will be published in the Nov. 1, 2021, issue of the **Missouri Register**.*

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.