

Emergency Rule

**Title 19—DEPARTMENT OF
HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 61—Licensing Rules for Family
[Day] Child Care Homes**

EMERGENCY AMENDMENT

19 CSR 30-61.055 [License Renewal] Annual Requirements. The department is amending the rule title, deleting sections (1) through (4), and adding new sections (1) and (2).

PURPOSE: This emergency amendment replaces the license renewal process with a similar annual compliance process. The amendment adds the new Annual Declaration for Licensed Facilities form.

EMERGENCY STATEMENT: The Missouri legislature passed HB 1414, 100th General Assembly, Second Regular Session (2020). One of the statutory changes included in this legislation was removal of the limitation in section 210.211.1, RSMo, that the Department of Health and Senior Services may only issue a child care license for a term not exceeding two (2) years. With this limitation removed, the department can transition to non-expiring child care licenses and an annual compliance monitoring process that will replace the current licensing renewal process. This new process will be similar to the license renewal process, with providers submitting documentation to show they meet the basic health and safety requirements for a child care provider and affirming their desire to continue on as a licensed provider in compliance with child care licensing rules and statutes. The annual compliance process will require a provider to submit less documentation than the renewal process did; however, this documentation must now be submitted annually rather than every two (2) years. As of August 28, 2020, the department will no longer accept applications to renew child care licenses as it will be transitioning all current licenses to a non-expiring status. However, to ensure that basic requirements for licensees are still met and that providers who wish to continue operating child care facilities agree to do so in compliance with licensing rules and statutes, it is imperative that the department have an annual compliance process in place immediately. This will ensure that providers who would have received a renewal inspection during the September 2020 to March 2021 time period will still be monitored and that those providers whose license would have expired during that time are able to be smoothly transitioned to a non-expiring licenses without a decrease in monitoring of safety standards. As a result, this emergency amendment is necessary to protect the safety and health of children in child care settings as the department transitions to non-expiring licenses as now allowed under 210.211.1, RSMo. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 31, 2020, becomes effective September 15, 2020, and expires March 13, 2021.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

[(1) An application for license renewal shall be filed at least

sixty (60) days prior to expiration of the license. In addition, the following information is required:

(A) Evidence of compliance with a fire and safety inspection as conducted by the State Fire Marshal or his/her designee;

(B) Evidence of compliance with local, state, or both, sanitation requirements;

(C) Medical examination reports on file at the home as required by 19 CSR 30-61.125 Medical Examination Reports;

(D) A health report on file at the home for each school-age child in care as required by 19 CSR 30-61.125 Medical Examination Reports;

(E) Enrollment information on file at the home for each child in care as required by 19 CSR 30-61.135 Admission Policies and Procedures;

(F) Identifying information on file at the home regarding each child in care who is related to the provider and not living in the home as required by 19 CSR 30-61.135 Admission Policies and Procedures;]

(G) A current list of available equipment;

(H) Materials and information which have changed since the previous licensing period;

(I) Documentation as required by the Missouri Secretary of State and state law to verify the legal entity is in good standing if a family day care home is owned by a legal entity;

(J) A completed Safety Plan form if a sex offender resides within 1,000 feet of the facility. See Safety Plan form, promulgated as of 2018 and incorporated by reference in this rule. As published by the Missouri Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and available by the department at <https://health.mo.gov/safety/childcare/forms.php>. This rule does not incorporate any subsequent amendments or additions. If the provider has an existing safety plan a new form is not required. This rule does not incorporate any subsequent amendments or additions; and

(K) A listing of household members.]

(1) The provider shall submit the following to the department on an annual basis, at least thirty (30) calendar days prior to the anniversary date as printed on the license:

(A) An Annual Declaration for Licensed Facility form, promulgated as of August 2020 and incorporated by reference in this rule. As published by the Missouri Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and available by the department at <https://health.mo.gov/safety/childcare/forms.php> indicating the licensee's intent to continue operating a licensed family child care home and agreement to comply with all statutes and department licensing rules;

(B) A current list of available equipment;

(C) A listing of household members and assistant(s); and

(D) A completed safety plan if a sex offender resides within 1,000 feet of the facility. If the provider has an existing safety plan, a new plan is not required.

[(2) The child care provider shall conduct a Family Care Safety Registry check for all child care staff members within sixty (60) days prior to the expiration of the license.]

(2) The provider shall have the following on file and available for review:

(A) Evidence of compliance with a fire and safety inspection as conducted by the State Fire Marshal or his/her designee;

(B) Evidence of compliance with local, state, or both,

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sanitation requirements;

(C) The child care provider shall conduct a Family Care Safety Registry check for all child care staff members within thirty (30) days prior to the anniversary date as printed on the license; and

(D) Documentation as required by the Missouri Secretary of State and state law to verify the legal entity is in good standing, if a family child care home is owned by a legal entity.

[(3) Child care staff members shall have qualifying background screening results on file as required by 19 CSR 30-63.020 General Requirements, prior to renewal of the license.

[(4) Upon determination of the applicant's continued compliance with state statutes and licensing rules for family day care homes, an official license shall be granted for up to two (2) years.]

*AUTHORITY: section 210.221.1(3), RSMo [2016] Supp. 2020[, and section 210.1080, RSMo Supp. 2018]. This rule previously filed as 13 CSR 40-61.031, 13 CSR 40-61.055, and 19 CSR 40-61.055. Original rule filed March 29, 1991, effective Oct. 31, 1991. Changed to 19 CSR 40-61.055, effective Dec. 9, 1993. Changed to 19 CSR 30-61.055 July 30, 1998. Amended: Filed Feb. 18, 1999, effective Sept. 30, 1999. Emergency amendment filed Feb. 15, 2019, effective Feb. 25, 2019, expired Aug. 23, 2019. Amended: Filed Feb. 15, 2019, effective Aug. 30, 2019. Emergency amendment filed Aug. 31, 2020, effective Sept. 15, 2020, expires March 13, 2021. A proposed amendment and emergency amendment covering this same material will be published in the Oct. 1, 2020, issue of the **Missouri Register**.*

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500.00) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will cost private entities four thousand, one hundred, fifty one dollars and four cents (\$4,151.04) in the time the emergency is effective.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 19 – Department of Health and Senior Services
Division Title: Division 30 – Division of Regulation and Licensure
Chapter Title: Chapter 61 – Licensing Rules for Family Day Care Homes

Rule Number and Name:	19 CSR 30-61.055 Annual Requirements
Type of Rulemaking:	Emergency Amendment

II. SUMMARY OF FISCAL IMPACT – EMERGENCY RULE PERIOD

Estimated Cost to Complete Annual Requirements per Provider	Estimated Number of Providers Required to Complete Annual Requirements	Total Estimated Cost of Annual Requirements Across Missouri
\$11.28	368	\$4,151.04

III. WORKSHEET

ESTIMATED TOTAL COST TO COMPLETE ANNUAL REQUIREMENTS	
Total Cost to Complete Annual Requirements	\$11.28
Total Number of Providers Required to Complete Annual Requirements	368
Total Private Cost	\$4,151.04

Methodology: Total Cost to Complete Annual Requirements * Total Number of Providers Required to Complete Annual Requirements = Total Private Cost

ESTIMATED COST TO COMPLETE ANNUAL REQUIREMENTS FOR FACILITIES				
Document	Time Estimate (Hours)	Average Hourly Wage of Missouri	Unemployment, Social Security, Payroll Taxes, and Workers' Comp	Total Cost per Child Care Provider
<i>Annual Declaration for a Licensed Facility form</i>	.25	\$13.05	17%	\$3.81
Current list of available equipment	.16	\$13.05	17%	\$2.44
Listing of household members and assistant(s)	.08	\$13.05	17%	\$1.22
Family Care Safety Registry screening results for all child care staff members	.25	\$13.05	17%	\$3.81
TOTALS	.74			\$11.28

Methodology: (Average Hourly Wage * Time Estimate) * Employer Expenses = Total Cost per Child Care Provider

IV. ASSUMPTIONS

1. Current licensing rules require providers to prepare and submit a current list of available equipment, listing of household members and assistant(s), and Family Care Safety Registry screening results for all child care staff members at renewal. Therefore, the department assumes that this is actually not an additional cost for 172 providers whose licenses were schedule to expire in this six month time period that this emergency rule will be in effect. For 196 providers who were not scheduled to renew during this six month timeframe but whose license anniversary falls during this time, there is an additional cost to prepare and submit a current list of available equipment, listing of household members and assistant(s), and Family Care Safety Registry screening results for all child care staff members. Because the Annual Declaration for Licensed Facility form is a new requirement, this is an additional cost for all 368 providers. For the sake of simplicity and transparency, the overall cost for this rule was calculated using all 368 providers who will submit documentation during the emergency period.

2. The average wage comes from the 2018 average wage for Child Care Workers in Missouri available from the Missouri Department of Economic Development (\$11.29) plus estimated inflation. No additions were made to this number for items such as 401k contributions or other fringe benefits because those are not an industry standard for child care workers.

3. Time estimates for the documents that must be completed to meet the annual requirements are estimated by the Department of Health and Senior Services for the estimated average amount of time necessary to review, compile and/or update, and submit the necessary documents.

The time estimates seen here are based on the following assumptions:

<p><i>Annual Declaration for a Licensed Facility form</i></p>	<p>0.25 hours (15 minutes) was allotted for this based on the fact that this is a one-page fillable form requesting identifying information. The provider is required to review, sign, date, and return the form to the department.</p>
<p>Current list of available equipment</p>	<p>.16 hours (10 minutes) was allotted for this because an equipment list is required for initial licensure. Child care providers should routinely update this list and keep it current for insurance and departmental purposes. The department currently requires a list of available equipment at renewal (once every two years).</p>
<p>Listing of household members and assistant(s)</p>	<p>.08 hours (5 minutes) was allotted for this because a listing of household member and assistant(s) is required for initial licensure. Child care providers are currently required to notify the department of any changes in household members and assistant(s). The department currently requires a list of household members and assistant(s) at renewal (once every two years).</p>

Family Care Safety Registry screening results for all child care staff members	.25 hours (15 minutes) was allotted for this based on discussions with Family Care Safety Registry (FCSR) staff about how long it typically takes for a family child care provider when they call to request background screenings.
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4. The time estimates only include one staff member because typically only one staff person (e.g. owner, provider, board chairperson, LLC member or designee) completes documentation that is submitted to the department.