

Emergency Rule

**Title 19—DEPARTMENT OF
HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 63—Child Care Comprehensive
Background Screening**

EMERGENCY AMENDMENT

19 CSR 30-63.010 Definitions. The department is deleting section (1), amending section (2), and adding new sections (1) and (6).

PURPOSE: This amendment revises and adds definitions to comply with section 210.1080.1 RSMo; specifically, this amendment revises the definitions for child care provider and child care staff member and adds a definition for qualifying result.

EMERGENCY STATEMENT: The Child Care and Development Block Grant (CCDBG) Act of 2014 Section 658H, which passed November 19, 2014, requires states to conduct comprehensive criminal background checks. The Missouri legislature enacted section 210.1080, RSMo, as a part of HB 1350, 99th General Assembly, First Regular Session (2018). During that same session the Missouri legislature made significant changes to section 210.025, RSMo, to extend background screening requirements to those unlicensed child care providers that receive subsidy payments through the Department of Social Services. Implementation of these statutes has revealed inconsistencies between how the departments determine eligibility for employment or presence in a child care setting and gaps in compliance with the CCCDBG Act. To which authorizes the DHSS to promulgate emergency rules to implement criminal background checks for licensed and license-exempt child care providers as required by the CCDBG Reauthorization. Governor Parson commissioned the Missouri Child Care Working Group on May 4, 2019 and charged the working group with conducting a thorough review of current child care regulations and reporting back with recommendations to ensure safe, quality child care. One of the working group's recommendations was that these inconsistencies and gaps in child care background screening requirements be corrected. In response, the Missouri legislature passed HB 1414, 100th General Assembly, Second Regular Session (2020), revising section 210.1080, RSMo, to now include identical requirements to work in a child care setting in Missouri, whether licensed or unlicensed but receiving subsidy payments. This law clarifies who must have a criminal background check, expands the list of offenses which could result in someone being determined to not be eligible for employment or presence in a child care setting, and creates a Child Care Background Screening Review Committee to ensure that appealed results are handled consistently between DHSS and DSS. This law also gives DHSS authority to promulgate emergency rules consistent with its provisions. As a result, this emergency amendment is necessary to protect the safety and health of children in child care settings, and to ensure criminal background checks are completed as required by and in compliance with the CCDBG Reauthorization and section 210.1080, 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.

[(1) Child care provider, group day care home provider, or provider is the person(s) licensed or required to be licensed under section 210.211, RSMo, or person(s) exempted by section 210.1080.9(1), RSMo, in order to establish, conduct, or maintain a child care facility. This person(s) shall have the

following rights and responsibilities as determined by the department:

(A) Ultimate responsibility for making and implementing decisions regarding the operation of the facility; and

(B) Ultimate financial control of the operation of the facility.]

(1) Child care provider is a person licensed or regulated to provide child care within the state of Missouri, including the member or members, manager or managers, shareholder or shareholders, director or directors, and officer or officers of any entity licensed or regulated to provide child care within the state of Missouri.

(2) Child care staff member is—] a child care provider; persons employed by the child care provider for compensation, including contract employees or self-employed individuals; individuals or volunteers whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or individuals residing in a family child care home who are seventeen (17) years of age and older.

(3) Criminal background check includes the following:

(A) A Federal Bureau of Investigation fingerprint check;

(B) A search of the National Crime Information Center's National Sex Offender Registry; and

(C) A search of the following registries, repositories, including the Family Care Safety Registry, or databases in Missouri, the state where the child care staff member resides, and each state where such staff member resided during the preceding five (5) years:

1. The state criminal registry or repository, with the use of fingerprints being required in the state where the staff member resides and optional in other states;

2. The state sex offender registry or repository; and

3. The state-based child abuse and neglect registry and database.

(4) Director is the director of the Missouri Department of Health and Senior Services.

(5) Department is the Missouri Department of Health and Senior Services.

(6) Qualifying result or qualifying criminal background check is a finding that a child care staff member or prospective child care staff member is eligible for employment or presence in a child care setting.

AUTHORITY: section 210.1080, RSMo Supp. [2018] 2020. Emergency rule filed Feb. 15, 2019, effective Feb. 25, 2019, expired Aug. 23, 2019. Original rule 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) 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.