

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 30-63.040 Background Screening Findings. The department is amending section (1).

PURPOSE: This amendment adds criteria that would cause a child care staff member to be ineligible for employment or presence at a family child care home, group child care home, child care center, or license-exempt facility to comply with section 210.1080.4, RSMo 2020.

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) Any child care staff member or prospective child care staff member shall be ineligible for employment or presence at a family child care home, group child care home, child care center, or license-exempt facility not exempted by section 210.1080.~~[9(1)]~~13, RSMo if

such person—

(A) Refuses to consent to the criminal background check as required by section 210.1080, RSMo;

(B) Knowingly makes a materially false statement in connection with the criminal background check as required by section 210.1080, RSMo;

(C) Is registered, or is required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry;

(D) *[Has a finding of child abuse or neglect under section 210.145 or 210.152, RSMo or any other finding of child abuse or neglect based on any other state's registry or database;] Is listed as a perpetrator of child abuse or neglect under sections 210.109 to 210.183, RSMo or has any other finding of child abuse or neglect based on any other state's registry or database;*

[(E) Has been convicted of a felony consisting of—

1. Murder, as described in 18 U.S.C. Section 1111;

2. Child abuse or neglect;

3. A crime against children, including child pornography;

4. Spousal abuse;

5. A crime involving rape or sexual assault;

6. Kidnapping;

7. Arson;

8. Physical assault or battery; or

9. A drug-related offense committed during the preceding five (5) years;

(F) Has been convicted of a violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, or sexual assault, or of a misdemeanor involving child pornography; or

(G) Has been convicted of any similar crime in any federal, state, municipal, or other court.]

(E) Has pled guilty or nolo contendere to or been found guilty of:

1. Any felony for an offense against the person as defined in chapter 565;

2. Any other offense against the person involving the endangerment of a child as prescribed by law;

3. Any misdemeanor or felony for a sexual offense as defined in chapter 566;

4. Any misdemeanor or felony for an offense against the family as defined in chapter 568;

5. Burglary in the first degree as defined in 569.160;

6. Any misdemeanor or felony for robbery as defined in chapter 570;

7. Any misdemeanor or felony for pornography or related offense as defined in chapter 573;

8. Any felony for arson as defined in chapter 569;

9. Any felony for armed criminal action as defined in section 571.015, unlawful use of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in section 571.070, or the unlawful possession of an explosive as defined in section 571.072;

10. Any felony for making a terrorist threat as defined in section 574.115, 574.120, or 574.125;

11. A felony drug-related offense committed during the preceding five years, or

12. Any similar offense in any federal, state, municipal, or other court of similar jurisdiction of which the director of the designated department has knowledge.

(2) Adult household members seventeen (17) years of age and older in a family child care home shall be ineligible to maintain a presence at a family child care home if any one (1) or more of the provisions of section (1) of this rule applies to them.

Emergency Rule

*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.