

**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 30-63.020 General Requirements. The department is amending sections (1), (2) and (4).

PURPOSE: This amendment makes changes consistent with recent changes to section 210.1080, RSMo.; specifically, changing when a person may begin working in a child care facility to the point in which they have received the qualifying result of a fingerprint based background check and adds an exemption to background screening for those child care providers who are not directly responsible for the oversight or direction of the child care facility and who do not have independent access to the facility.

*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 CCDBG 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 rule 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 rule 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 rule is fair to all interested*

persons and parties under the circumstances. This emergency rule was filed August 31, 2020, becomes effective September 15, 2020, and expires March 13, 2021.

(1) Prior to the employment or presence of a child care staff member in 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, the child care provider shall request the results of a criminal background check for such child care staff member from the department.

(2) A prospective child care staff member may begin work for a child care provider after the *[criminal background check has been requested]* **qualifying result of either a Federal Bureau of Investigation fingerprint check or a search of the Missouri criminal registry or repository with the use of fingerprints has been received** from the department; however, pending completion of the criminal background check, the prospective child care staff member shall be supervised at all times by another child care staff member who received a qualifying result on the criminal background check within the past five (5) years.

(3) Child care providers shall request the results of a criminal background check for all child care staff members, unless the requirements of section (4) of this rule are met by the child care provider and proof is submitted to the department.

(4) A child care provider shall not be required to submit a request for a criminal background check for a child care staff member if—

(A) The staff member received a **qualifying** criminal background check within five (5) years before the latest date on which such a submission may be made and while employed by or seeking employment by another child care provider within Missouri;

(B) The first provider received a qualifying criminal background check result, consistent with this chapter, for the staff member; and

(C) The staff member is employed by a child care provider within Missouri or has been separated from employment from a child care provider within Missouri for a period of not more than one hundred eighty (180) consecutive days[.]; **or**

(D) The individual meets the definition of child care provider, but is not responsible for the oversight or direction of the child care facility and does not have independent access to the child care facility. Such staff members shall be accompanied by an individual with a qualifying criminal background check in order to be present at the child care facility during child care hours.

(5) Criminal background checks shall be completed for each child care staff member every five (5) years.

*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 covering this same material is published in this issue of the **Missouri Register**.*

Original authority: 210.1080, RSMo 2018, **amended 2020.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions less than five hundred dollars (\$500.00) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500.00) in the aggregate.