

On August 2, 2019, the Section for Child Care Regulation (SCCR) sent information via our list serve regarding House Bill 397. The part of the legislation that affects child care facilities is called “Nathan’s Law” and is named after an infant who died in an illegal child care home in Jefferson County in 2007. It’s important to remember that these changes were made to improve the safety of children in child care facilities and prevent tragic incidents of injury or death.

Over the past two weeks, we have received several questions regarding the upcoming changes in Missouri’s child care laws. This message is to provide answers to the frequently asked questions we have received.

Q. Are licensed child care facilities affected by House Bill 397?

A. Yes. Child care licensing rules provided for an exemption for related children counting in a licensed provider’s capacity. Based on the changes to the statute, SCCR has had to re-evaluate the exemptions included in its licensing rules and make changes to comply with the statute.

Q. Do licensed provider’s related children count in their license capacity?

A. Yes, beginning August 28, 2019, all children in care will count in a licensed child care provider’s capacity.

Q. Can a licensed child care home/group home provider request a variance to exempt school-age children who live in the home from their license capacity?

A. Yes, to be consistent with the exemption provided to unlicensed providers in Section 210.211.1(1), SCCR will approve variance requests to exclude children who live in the provider’s home **AND** who are five years old or older from counting in ratio and the license capacity. These variances will be granted on a case-by-case basis and only if the department determines that granting such a variance will not endanger the health or safety of the children served by the facility. All other rules will apply to these children. This applies to family homes and group homes regardless of whether the facility is operated out of the provider’s home or another location and regardless of whether the licensee is a sole proprietor or legal entity.

Q. How does a family/group child care home provider request a variance for school-age children who live in the home?

A. Submit a completed variance request form found at <https://health.mo.gov/safety/childcare/pdf/BCC-25-1.pdf> and a list containing the name(s) and birthdate(s) of the school-age child(ren) for whom the variance applies, to your Child Care Facility Specialist. These children must be at least 5 years old and reside in the provider’s home.

The applicable rules for the variance request are:

- 19 CSR 30-61.045 19 CSR 30-61.045(2)(T) which states, “The number and ages of children a family day care home is authorized to have in care at any one time shall be specified on the license and shall not be exceeded except as permitted within these rules.”
- 19 CSR 30-62.042(2)(V) which states, “The number and ages of children the facility is authorized to have in care at any one (1) time shall be specified on the license and shall not be exceeded except as permitted within these rules.”

Q. Will SCCR approve variance requests to exclude other related children, such as the provider’s preschool children/grandchildren, from counting in the license capacity?

A. No, SCCR has determined that granting variances for children besides those who are five years of age and older who live in the provider’s home is inconsistent with the purpose behind setting licensing capacities, which is to ensure that the number of children in care is limited to an amount that the provider can safely care for in their facility.

Q. If a provider is licensed to care for children through 5 years of age and her grandchildren come to visit, would the grandchildren count in the license capacity if they are over 5 years of age?

A. The answer will depend on a number of factors, including the age of the grandchildren and whether the grandchildren are in the provider’s care. If the grandchildren are with a parent, SCCR would not consider the children in the care of the provider. If the grandchildren are teenagers and do not need care, for example they are 15 and 16 and they are visiting, SCCR would not consider the children in the care of the provider. However, if the grandchild is six years old, no parent is present, and the child is in the care of the provider, SCCR would consider the child in the provider’s care and the child would be included in the total number of children in care. Because the circumstances of situations like these will vary from provider to provider, providers are encouraged to talk with their licensing specialist to determine whether or not the children will be considered “in care” and what that means for them.

Q. If a provider’s licensed age range is for ages 6 months to 12 years old, but the provider has a newborn, would the provider need to revise her license to include the newborn in the license capacity?

A. Yes, because of the attention that young children require, SCCR does not consider excluding them from the licensed capacity to be in the best interest of other children in care.

Q. Will overlap be affected or voided with the rule on related children?

A. No, these changes do not impact overlap. If a licensed home/group home provider has a variance to exclude children who live in the home and who are 5 years old or older from

counting in the capacity, the provider could have overlap for additional children who are counted in the license capacity.

Q. Will SCCR deny applications for license renewal if the child care facility is located within 1,000 feet of a location where a person required to register as a sex offender resides or regularly receives treatment or services, excluding those provided by a hospital?

A. No, however, it's helpful to understand the issue behind the legislation. Last year, SCCR received an initial application for a child care center for a facility that was located within 10 feet of a residential facility that housed more than 20 registered sex offenders. The majority of the offenders had committed crimes against young children. While SCCR denied the initial application due to safety concerns, the legislature wanted to ensure the department had very clear authority to deny such an application for a child care license.

For currently licensed facilities - Missouri statute prohibits registered sex offenders from moving within 1,000 feet of a child care program, so currently licensed child care programs should not have new offenders moving within that distance. If new offenders are found residing within 1,000 feet of a licensed child care program, the licensee should contact their local law enforcement agency to report the information for law enforcement's review and action. SCCR staff will also report the information to the local law enforcement agency.

Q. What changed for unlicensed child care providers?

A. Currently, an individual can care for up to four children who are unrelated to them and an unlimited number of children who are related to the provider. Beginning August 28, 2019, unlicensed child care providers can care for up to six children, including a maximum of three children who are under two years of age. Children who live in the home and who are five years old and older will not be included in the total number of children in care. All other children will be included in the total number of children in care.

Q. What should you do if you have questions about how these changes affect your facility and/or the families you serve?

A. We realize these changes will impact child care programs and the families you serve. **We are committed to working with child care providers and families during this transition.** If you have any questions about these upcoming changes, you may contact your child care facility specialist.

Q. How can you assist families who may be seeking a new child care placement?

A. Please provide parents with contact information for Child Care Aware[®] of Missouri. They can assist parents with child care resource and referral services. Child Care Aware[®] of Missouri

can be reached by phone at 800-200-9017, or by email at info@mo.childcareaware.org. Information regarding the services they offer is available on their website at: <https://www.mo.childcareaware.org/>

Parents who utilize child care subsidy or would like to apply for child care subsidy can find information on Department of Social Services' website at <https://dss.mo.gov/fsd/child-care.htm>