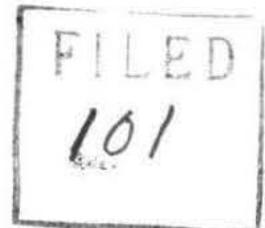


April 18, 1972

OPINION LETTER NO. 101
Answer by letter-Mansur

Honorable Robert H. Branom
Representative, District 35
Room 407, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Branom:

This is in response to your request for an opinion from this office as follows:

"Section 210.211 exempts from day care licensing centers run by 'well known religious order' (emphasis mine.) Does the use of the word 'order' mean faith, denomination or church or does it mean, as commonly used, a specific group within a particular religion. If the latter, is that construction constitutional.

"The state has, in the past, licensed all day care centers except those run by a number of Roman Catholic 'orders'. Now the department has decided it can not license any center run by a religious faith. 210.211."

Section 210.211, RSMo 1969, to which you refer, makes it unlawful for any person to establish, maintain or operate a boarding home for children, a day care home or a day nursery for children, or a child placing agency as defined by Sections 210.201 to 210.245, RSMo, without having a written license granted by the State Division of Welfare. It further provides that nothing in the above statutes shall apply to "any well-known religious order."

The answer to your question depends upon the interpretation or meaning of the term "any well-known religious order" as that term is used in the above statute.

Honorable Robert H. Branom

We have been unable to find any appellate court decision in this state defining this term. The basic rule of statutory construction is first to seek the intention of the lawmaker and, if possible, to effectuate that intention. *Marty v. State Tax Commission of Missouri*, 336 S.W.2d 696 (Mo. 1960).

It is our opinion that the legislature when it enacted the above statute intended the term "any well-known religious order" to be interpreted broadly to include any and all religious denominations that have a well-defined organization, incorporated or unincorporated, that are a well-defined entity without respect to any particular creed, except that its members profess a faith in the existence of a Divine Ruler. We do not believe that it was intended to apply only to one faith such as the Roman Catholic faith.

Yours very truly,

JOHN C. DANFORTH
Attorney General