

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1070**  
**91ST GENERAL ASSEMBLY**

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Reported from the Committee on Criminal Law, April 30, 2002, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1070 Do Pass.

TED WEDEL, Chief Clerk

2396L.04C

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**AN ACT**

To repeal sections 43.540, 547.170, 589.400, and 589.410, RSMo, and to enact in lieu thereof four new sections relating to protection of children, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 43.540, 547.170, 589.400, and 589.410, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 43.540, 547.170, 589.400, and  
3 589.410, to read as follows:

- 43.540. 1. As used in this section, the following terms mean:
- 2 (1) "Criminal record review", a request to the highway patrol for information concerning  
3 any criminal history record for a felony or misdemeanor **and any offense for which the person**  
4 **has registered pursuant to sections 589.400 to 589.425, RSMo;**
- 5 (2) "Patient or resident", a person who by reason of aging, illness, disease or physical or  
6 mental infirmity receives or requires care or services furnished by a provider, as defined in this  
7 section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in  
8 a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive  
9 hours;
- 10 (3) "Patrol", the Missouri state highway patrol;
- 11 (4) "Provider", any licensed day care home, licensed day care center, licensed child  
12 placing agency, licensed residential care facility for children, licensed group home, licensed  
13 foster family group home, licensed foster family home or any operator licensed pursuant to

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent  
15 placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo;

16 (5) "Youth services agency", any public or private agency, school, or association which  
17 provides programs, care or treatment for or which exercises supervision over minors.

18 2. Upon receipt of a written request from a private investigatory agency, a youth service  
19 agency or a provider, with the written consent of the applicant, the highway patrol shall conduct  
20 a criminal record review of an applicant for a paid or voluntary position with the agency or  
21 provider if such position would place the applicant in contact with minors, patients or residents.

22 3. Any request for information made pursuant to the provisions of this section shall be  
23 on a form provided by the highway patrol and shall be signed by the person who is the subject  
24 of the request.

25 4. The patrol shall respond in writing to the youth service agency or provider making a  
26 request for information pursuant to this section and shall inform such youth service agency or  
27 provider of the **address and offense for which the offender registered pursuant to sections**  
28 **589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any**  
29 **other offenses contained in the criminal record review.** Notwithstanding any other provision  
30 of law to the contrary, the youth service agency or provider making such request shall have  
31 access to all records of arrests resulting in an adjudication where the applicant was found guilty  
32 or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo,  
33 sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for  
34 offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the  
35 period of any probation imposed by the sentencing court.

36 5. Any information received by a provider or a youth services agency pursuant to this  
37 section shall be used solely for the provider's or youth service agency's internal purposes in  
38 determining the suitability of an applicant or volunteer. The information shall be confidential  
39 and any person who discloses the information beyond the scope allowed in this section is guilty  
40 of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services  
41 agency of the requirements of this subsection and the penalties provided in this subsection at the  
42 time it releases any information pursuant to this section.

547.170. In all cases where an appeal or writ of error is prosecuted from a judgment in  
2 a criminal cause, except where the defendant is under sentence of death or imprisonment in the  
3 penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo,  
4 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **566.032, 566.040,**  
5 **566.060, 566.062, 566.070, 566.100,** RSMo, any court or officer authorized to order a stay of  
6 proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up the  
7 defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be

8 approved by such court or judge.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been  
3 found guilty of, or pled guilty to committing, or attempting to commit, an offense of chapter 566,  
4 RSMo; or

5 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found  
6 guilty of, or pled guilty to committing, or attempting to commit one or more of the following  
7 offenses: kidnapping; promoting prostitution in the first degree; promoting prostitution in the  
8 second degree; promoting prostitution in the third degree; incest; abuse of a child; used a child  
9 in a sexual performance; or promoting sexual performance by a child; and committed or  
10 attempted to commit the offense against a victim who is a minor, defined for the purposes of  
11 sections 589.400 to 589.425 as a person under eighteen years of age; or

12 (3) Any person who, since July 1, 1979, has been committed to the department of mental  
13 health as a criminal sexual psychopath; or

14 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental  
15 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

16 (5) Any person who is a resident of this state **who has, since July 1, 1979, or is**  
17 **hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any**  
18 **other state or under federal jurisdiction to committing, or attempting to commit, an offense**  
19 **which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony**  
20 **violation of any offense listed in subdivision (2) of this subsection** and has been or is required  
21 to register in another state or has been or is required to register under federal or military law; or

22 (6) Any person who has been or is required to register in another state or has been or is  
23 required to register under federal or military law and who works or attends school or training on  
24 a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more  
25 than fourteen days in any twelve-month period.

26 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of  
27 [coming into any county] **conviction, release from incarceration, or placement upon**  
28 **probation**, register with the chief law enforcement official of the county in which such person  
29 resides **unless such person has already registered in that county for the same offense. Any**  
30 **person to whom sections 589.400 to 589.425 apply if not currently registered in their county**  
31 **of residence shall register with the chief law enforcement official of such county within ten**  
32 **days of the effective date of this section.** The chief law enforcement official shall forward a  
33 copy of the registration form required by section 589.407 to a city, town or village law  
34 enforcement agency located within the county of the chief law enforcement official, if so  
35 requested. Such request may ask the chief law enforcement official to forward copies of all

36 registration forms filed with such official. The chief law enforcement official may forward a  
37 copy of such registration form to any city, town or village law enforcement agency, if so  
38 requested.

39 3. The registration requirements of sections 589.400 through 589.425 are lifetime  
40 registration requirements unless all offenses requiring registration are reversed, vacated or set  
41 aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. The chief law enforcement official shall forward the completed offender  
2 registration form to the Missouri state highway patrol within three days. The patrol shall enter  
3 the information into the Missouri uniform law enforcement system (MULES) where it is  
4 available to members of the criminal justice system, **and other entities as provided by law,**  
5 upon inquiry.