

HB 916 -- MISSOURI CHILD PROTECTION REGISTRY ACT

SPONSOR: Black

This bill establishes the Missouri Child Protection Registry Act that requires the Attorney General or a qualified third party to establish and operate the Missouri Child Protection Registry consisting of a secure list of contact points that belong to or is accessible to minors. A "contact point" is defined as any electronic identification that can receive messages and includes an instant message, any wireless communication device, a fax number, email address, or any other electronic address established by the Attorney General. The Attorney General or a third party administrator must establish procedures to protect each contact point from unauthorized use. If the Attorney General contracts with a third party, consideration must be given to a vendor located in Missouri by April 1, 2016. The Attorney General or the vendor must conduct a third-party audit at least annually to certify the security of the registry. If an audit determines the registry does not meet or exceed the industry standard for high-security systems, the registry must be suspended until the security systems are determined to meet the standard.

A parent, guardian, individual, school, or other institution or entity primarily serving minor children who are responsible for one or more contact points to which a minor may have access is authorized to register the contact points with the Attorney General. Schools, institutions, or entities that primarily serve minor children may make one registration for all of their contact points and the registration may include the entity's Internet domain name. A fee or charge cannot be assessed or incurred for registering a contact point.

A registration must be for not more than three years. When a contact point is established for a specific minor, the registration expires the year he or she turns 18 years of age. A registration may be revoked or renewed by the registrant by notifying the Attorney General. The registry and information submitted is confidential and not subject to public disclosure.

If a contact point has been registered for more than 30 days, anyone is prohibited from sending, causing to be sent, or conspiring with a third party to send a message that is primarily being used to advertise or link to a message that advertises gambling, intoxicating liquor, tobacco products, vapor products, controlled substances, or material pornographic for minors. These messages are not prohibited if the sender has obtained an affirmative statement of consent to receive the message at an adult designated contact point from an age-verified adult prior to

sending the message. To comply with these provisions, the sender must:

- (1) Verify the person making the affirmative statement is of legal age by inspecting, in a face-to-face transaction, a valid government-issued photo identification with proof of age;
- (2) Obtain a consent form signed by the recipient stating that he or she consents to receive this type of message;
- (3) Include a notice to the recipient allowing him or her to opt out of receiving future messages; and
- (4) Notify the Attorney General that the sender intends to send messages as allowed under these provisions. The Attorney General may implement procedures to verify that the sender is in compliance with these provisions.

The Attorney General must establish by rule a mechanism for senders of messages to contact points to verify compliance with the registry and anyone wanting to send a message described in these provisions must use the mechanism to ensure compliance with these provisions.

A person desiring to send a message described in these provisions must pay the Attorney General a 7/10 of one cent fee for access to the mechanism based on the number of contact points checked against the registry for each time a contact point is checked. The fees collected are to be credited to the following:

- (1) 85% of the fees to the newly created Children's Protection Registry Fund;
- (2) Not less than 15% of the fees to the Attorney General to cover the cost of investigating, enforcing, and defending these provisions. The Attorney General may be reimbursed from the fund for any costs incurred that exceed the fees credited.

The consent of a minor or third party to receive the message is not a defense to a violation of these provisions. An Internet service provider is not in violation of these provisions by solely transmitting a message across the network of the Internet service provider.

Any person who violates these provisions is guilty of a class A misdemeanor.

A civil action may be brought by an authorized individual or the registrant of a contact point on behalf of a minor who has received

a message in violation of these provisions or by the Attorney General. A civil action may also be brought by a person through whose facilities the message was transmitted in violation of these provisions. In any action, the prevailing party may be awarded reasonable attorney fees. A person bringing an action may recover actual damages, including reasonable attorney fees, \$5,000 per each message received by a recipient or transmitted, or \$250,000 for each day the violation occurs.

If the Attorney General has reason to believe that an individual has violated these provisions, he or she may investigate the business transactions of the individual. The Attorney General may require him or her to appear in person, to give information under oath, and to produce the documents and evidence necessary to determine if he or she is in compliance. It is a defense to an action brought under this provision that the defendant reasonably relied on the mechanism established by the department.

The bill becomes effective January 1, 2016.