

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

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FOR

HOUSE BILL NO. 1350

AN ACT

To repeal sections 43.500, 43.503, 43.504, 43.506, 43.509, 43.527, 43.530, 43.535, 43.540, 43.543, 43.546, 43.547, 192.2495, 208.909, 210.025, 210.254, 210.258, 210.482, 210.487, 302.060, 313.810, and 610.120, RSMo, and to enact in lieu thereof twenty-three new sections relating to criminal history records, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 43.500, 43.503, 43.504, 43.506, 43.509, 43.527, 43.530, 43.535, 43.540, 43.543, 43.546, 43.547, 192.2495, 208.909, 210.025, 210.254, 210.258, 210.482, 210.487, 302.060, 313.810, and 610.120, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 43.500, 43.503, 43.504, 43.506, 43.509, 43.527, 43.530, 43.535, 43.540, 43.543, 43.546, 43.547, 192.2495, 208.909, 210.025, 210.254, 210.258, 210.482, 210.487, 210.1080, 302.060, 313.810, and 610.120, to read as follows:

43.500. As used in sections 43.500 to ~~43.543~~ 43.651, the following terms mean:

1 (1) "Administration of criminal justice", performance of
2 any of the following activities: detection, apprehension,
3 detention, pretrial release, post-trial release, prosecution,
4 adjudication, correctional supervision, or rehabilitation of
5 accused persons or criminal offenders. The administration of
6 criminal justice shall include the screening of employees or
7 applicants seeking employment with criminal justice agencies,
8 criminal identification activities, and the collection, storage,
9 and dissemination of criminal history information, including
10 fingerprint searches, photographs, and other unique biometric
11 identification;

12 (2) "Central repository", the division within the Missouri
13 state highway patrol responsible for compiling and disseminating
14 complete and accurate criminal history records [~~and for~~
15 ~~compiling, maintaining, and disseminating criminal incident and~~
16 ~~arrest reports~~] and statistics;

17 (3) "Committee", criminal records and justice information
18 advisory committee;

19 (4) "Comparable ordinance violation", a violation of an
20 ordinance having all the essential elements of a statutory felony
21 or a class A misdemeanor;

22 (5) "Criminal history record information", information
23 collected by criminal justice agencies on individuals consisting
24 of identifiable descriptions and notations of arrests,
25 detentions, indictments, informations, or other formal criminal
26 charges, and any disposition arising therefrom, sentencing,
27 correctional supervision, and release;

28 (6) "Final disposition", the formal conclusion of a

1 criminal proceeding at whatever stage it occurs in the criminal
2 justice system;

3 (7) "Missouri charge code", a unique number assigned by the
4 office of state courts administrator to an offense for tracking
5 and grouping offenses. Beginning January 1, 2005, the complete
6 charge code shall consist of digits assigned by the office of
7 state courts administrator, the two-digit national crime
8 information center modifiers and a single digit designating
9 attempt, accessory, or conspiracy. The only exception to the
10 January 1, 2005, date shall be the courts that are not using the
11 statewide court automation case management pursuant to section
12 476.055; the effective date will be as soon thereafter as
13 economically feasible for all other courts;

14 (8) "State offense cycle number", a unique number, supplied
15 by or approved by the Missouri state highway patrol, on the state
16 criminal fingerprint card. The offense cycle number, OCN, is
17 used to link the identity of a person, through unique biometric
18 identification, to one or many offenses for which the person is
19 arrested or charged. The OCN will be used to track an offense
20 incident from the date of arrest to the final disposition when
21 the offender exits from the criminal justice system;

22 (9) "Unique biometric identification", automated methods of
23 recognizing and identifying an individual based on a
24 physiological characteristic. Biometric identification methods
25 may include but are not limited to facial recognition,
26 fingerprints, palm prints, hand geometry, iris recognition, and
27 retinal scan.

28 43.503. 1. For the purpose of maintaining complete and

1 accurate criminal history record information, all police officers
2 of this state, the clerk of each court, the department of
3 corrections, the sheriff of each county, the chief law
4 enforcement official of a city not within a county and the
5 prosecuting attorney of each county or the circuit attorney of a
6 city not within a county shall submit certain criminal arrest,
7 charge, and disposition information to the central repository for
8 filing without undue delay in the form and manner required by
9 sections 43.500 to [~~43.543~~] 43.651.

10 2. All law enforcement agencies making misdemeanor and
11 felony arrests as determined by section 43.506 shall furnish
12 without undue delay, to the central repository, fingerprints,
13 photograph, and if available, any other unique biometric
14 identification collected, charges, appropriate charge codes, and
15 descriptions of all persons who are arrested for such offenses on
16 standard fingerprint forms supplied or approved by the highway
17 patrol or electronically in a format and manner approved by the
18 highway patrol and in compliance with the standards set by the
19 Federal Bureau of Investigation in its Automated Fingerprint
20 Identification System or its successor program. All such
21 agencies shall also notify the central repository of all
22 decisions not to refer such arrests for prosecution. An agency
23 making such arrests may enter into arrangements with other law
24 enforcement agencies for the purpose of furnishing without undue
25 delay such fingerprints, photograph, and if available, any other
26 unique biometric identification collected, charges, appropriate
27 charge codes, and descriptions to the central repository upon its
28 behalf.

1 3. In instances where an individual less than seventeen
2 years of age and not currently certified as an adult is taken
3 into custody for an offense which would be a felony if committed
4 by an adult, the arresting officer shall take fingerprints for
5 the central repository. These fingerprints shall be taken on
6 fingerprint cards supplied by or approved by the highway patrol
7 or transmitted electronically in a format and manner approved by
8 the highway patrol and in compliance with the standards set by
9 the Federal Bureau of Investigation in its Automated Fingerprint
10 Identification System or its successor program. The fingerprint
11 cards shall be so constructed that the name of the juvenile
12 should not be made available to the central repository. The
13 individual's name and the unique number associated with the
14 fingerprints and other pertinent information shall be provided to
15 the court of jurisdiction by the agency taking the juvenile into
16 custody. The juvenile's fingerprints and other information shall
17 be forwarded to the central repository and the courts without
18 undue delay. The fingerprint information from the card shall be
19 captured and stored in the automated fingerprint identification
20 system operated by the central repository. In the event the
21 fingerprints are found to match other tenprints or unsolved
22 latent prints, the central repository shall notify the submitting
23 agency who shall notify the court of jurisdiction as per local
24 agreement. Under section 211.031, in instances where a juvenile
25 over fifteen and one-half years of age is alleged to have
26 violated a state or municipal traffic ordinance or regulation,
27 which does not constitute a felony, and the juvenile court does
28 not have jurisdiction, the juvenile shall not be fingerprinted

1 unless certified as an adult.

2 4. Upon certification of the individual as an adult, the
3 certifying court shall order a law enforcement agency to
4 immediately fingerprint and photograph the individual and
5 certification papers will be forwarded to the appropriate law
6 enforcement agency with the order for fingerprinting. The law
7 enforcement agency shall submit such fingerprints, photograph,
8 and certification papers to the central repository within fifteen
9 days and shall furnish the offense cycle number associated with
10 the fingerprints to the prosecuting attorney or the circuit
11 attorney of a city not within a county and to the clerk of the
12 court ordering the subject fingerprinted. If the juvenile is
13 acquitted of the crime and is no longer certified as an adult,
14 the prosecuting attorney shall notify within fifteen days the
15 central repository of the change of status of the juvenile.
16 Records of a child who has been fingerprinted and photographed
17 after being taken into custody shall be closed records as
18 provided under section 610.100 if a petition has not been filed
19 within thirty days of the date that the child was taken into
20 custody; and if a petition for the child has not been filed
21 within one year of the date the child was taken into custody, any
22 records relating to the child concerning the alleged offense may
23 be expunged under the procedures in sections 610.122 to 610.126.

24 5. The prosecuting attorney of each county or the circuit
25 attorney of a city not within a county or the municipal
26 prosecuting attorney shall notify the central repository on
27 standard forms supplied by the highway patrol or in a manner
28 approved by the highway patrol of his or her decision to not file

1 a criminal charge on any charge referred to such prosecuting
2 attorney or circuit attorney for criminal charges. All records
3 forwarded to the central repository and the courts by prosecutors
4 or circuit attorneys as required by sections 43.500 to 43.530
5 shall include the state offense cycle number of the offense, the
6 charge code for the offense, and the originating agency
7 identifier number of the reporting prosecutor, using such numbers
8 as assigned by the highway patrol.

9 6. The clerk of the courts of each county or city not
10 within a county or municipal court clerk shall furnish the
11 central repository, on standard forms supplied by the highway
12 patrol or in a manner approved by the highway patrol, with a
13 record of all charges filed, including all those added subsequent
14 to the filing of a criminal court case, amended charges, and all
15 final dispositions of cases for which the central repository has
16 a record of an arrest or a record of fingerprints reported
17 pursuant to sections 43.500 to 43.506. Such information shall
18 include, for each charge:

19 (1) All judgments of not guilty, acquittals on the ground
20 of mental disease or defect excluding responsibility, judgments
21 or pleas of guilty including the sentence, if any, or probation,
22 if any, pronounced by the court, nolle pros, discharges, releases
23 and dismissals in the trial court;

24 (2) Court orders filed with the clerk of the courts which
25 reverse a reported conviction or vacate or modify a sentence;

26 (3) Judgments terminating or revoking a sentence to
27 probation, supervision or conditional release and any
28 resentencing after such revocation; and

1 (4) The offense cycle number of the offense, and the
2 originating agency identifier number of the sentencing court,
3 using such numbers as assigned by the highway patrol.

4 7. The clerk of the courts of each county or city not
5 within a county shall furnish, to the department of corrections
6 or department of mental health, court judgment and sentence
7 documents and the state offense cycle number and the charge code
8 of the offense which resulted in the commitment or assignment of
9 an offender to the jurisdiction of the department of corrections
10 or the department of mental health if the person is committed
11 pursuant to chapter 552. This information shall be reported to
12 the department of corrections or the department of mental health
13 at the time of commitment or assignment. If the offender was
14 already in the custody of the department of corrections or the
15 department of mental health at the time of such subsequent
16 conviction, the clerk shall furnish notice of such subsequent
17 conviction to the appropriate department by certified mail,
18 return receipt requested, or in a manner and format mutually
19 agreed to, within fifteen days of such disposition.

20 8. Information and fingerprints, photograph and if
21 available, any other unique biometric identification collected,
22 forwarded to the central repository, normally obtained from a
23 person at the time of the arrest, may be obtained at any time the
24 subject is in the criminal justice system or committed to the
25 department of mental health. A law enforcement agency or the
26 department of corrections may fingerprint, photograph, and
27 capture any other unique biometric identification of the person
28 unless collecting other unique biometric identification of the

1 person is not financially feasible for the law enforcement
2 agency, and obtain the necessary information at any time the
3 subject is in custody. If at the time of any court appearance,
4 the defendant has not been fingerprinted and photographed for an
5 offense in which a fingerprint and photograph is required by
6 statute to be collected, maintained, or disseminated by the
7 central repository, the court shall order a law enforcement
8 agency or court marshal to fingerprint and photograph immediately
9 the defendant. The order for fingerprints shall contain the
10 offense, charge code, date of offense, and any other information
11 necessary to complete the fingerprint card. The law enforcement
12 agency or court marshal shall submit such fingerprints,
13 photograph, and if available, any other unique biometric
14 identification collected, to the central repository without undue
15 delay and within thirty days and shall furnish the offense cycle
16 number associated with the fingerprints to the prosecuting
17 attorney or the circuit attorney of a city not within a county
18 and to the court clerk of the court ordering the subject
19 fingerprinted.

20 9. The department of corrections and the department of
21 mental health shall furnish the central repository with all
22 information concerning the receipt, escape, execution, death,
23 release, pardon, parole, commutation of sentence, granting of
24 executive clemency, legal name change, or discharge of an
25 individual who has been sentenced to that department's custody
26 for any offenses which are mandated by law to be collected,
27 maintained or disseminated by the central repository. All
28 records forwarded to the central repository by the department as

1 required by sections 43.500 to [~~43.543~~] 43.651 shall include the
2 offense cycle number of the offense, and the originating agency
3 identifier number of the department using such numbers as
4 assigned by the highway patrol.

5 43.504. Notwithstanding section 610.120, the sheriff of any
6 county, the sheriff of the city of St. Louis, and the judges of
7 the circuit courts of this state may make available, for review,
8 information obtained from the central repository to private
9 entities responsible for probation supervision pursuant to
10 sections 559.600 to 559.615. When the term of probation is
11 completed or when the material is no longer needed for purposes
12 related to the probation, it shall be returned to the court or
13 destroyed. Criminal history information obtained from the
14 central repository may be made available to private entities
15 responsible for providing services associated with drug treatment
16 courts under sections 478.001 to 478.008. The private entities
17 shall not use or make this information available to any other
18 person for any other purpose.

19 43.506. 1. Those offenses considered reportable for the
20 purposes of sections 43.500 to [~~43.543~~] 43.651 include all
21 felonies; class A misdemeanors; all violations for driving under
22 the influence of drugs or alcohol; any offense that can be
23 enhanced to a class A misdemeanor or higher for subsequent
24 violations; and comparable ordinance violations consistent with
25 the reporting standards established by the National Crime
26 Information Center, Federal Bureau of Investigation, for the
27 Federal Interstate Identification Index System; and all cases
28 arising under chapter 566. The following types of offenses shall

1 not be considered reportable for the purposes of sections 57.403,
2 43.500 to ~~[43.543]~~ 43.651, and 595.200 to 595.218: nonspecific
3 charges of suspicion or investigation, general traffic violations
4 and all misdemeanor violations of the state wildlife code. All
5 offenses considered reportable shall be reviewed annually and
6 noted in the Missouri charge code manual established in section
7 43.512. All information collected pursuant to sections 43.500 to
8 ~~[43.543]~~ 43.651 shall be available only as set forth in section
9 610.120.

10 2. Law enforcement agencies, court clerks, prosecutors and
11 custody agencies may report required information by electronic
12 medium either directly to the central repository or indirectly to
13 the central repository via other criminal justice agency computer
14 systems in the state with the approval of the highway patrol,
15 based upon standards established by the advisory committee.

16 3. In addition to the repository of fingerprint records for
17 individual offenders and applicants, the central repository of
18 criminal history and identification records for the state shall
19 maintain a repository of latent prints, palm prints and other
20 unique biometric identification submitted to the repository.

21 43.509. The director of the department of public safety
22 shall, in accordance with the provisions of chapter 536,
23 establish such rules and regulations as are necessary to
24 implement the provisions of sections 43.500 to ~~[43.543]~~ 43.651.
25 All collection and dissemination of criminal history information
26 shall be in compliance with chapter 610 and applicable federal
27 laws or regulations. Such rules shall relate to the collection
28 of criminal history information from or dissemination of such

1 information to criminal justice, noncriminal justice, and private
2 agencies or citizens both in this and other states. No rule or
3 portion of a rule promulgated under the authority of sections
4 43.500 to ~~[43.543]~~ 43.651 shall become effective unless it has
5 been promulgated pursuant to the provisions of section 536.024.

6 43.527. For purposes of sections 43.500 to ~~[43.543]~~ 43.651,
7 all federal and nonstate of Missouri agencies and persons shall
8 pay for criminal records checks, fingerprint searches, and any of
9 the information as defined in subdivision (4) of section 43.500,
10 when such information is not related to the administration of
11 criminal justice. There shall be no charge for information
12 supplied to criminal justice agencies for the administration of
13 criminal justice. For purposes of sections 43.500 to ~~[43.543]~~
14 43.651, the administration of criminal justice is defined in
15 subdivision (1) of section 43.500 and shall be available only as
16 set forth in section 610.120.

17 43.530. 1. For each request requiring the payment of a fee
18 received by the central repository, the requesting entity shall
19 pay a fee of not more than nine dollars per request for criminal
20 history record information not based on a fingerprint search. In
21 each year beginning on or after January 1, 2010, the
22 superintendent may increase the fee paid by requesting entities
23 by an amount not to exceed one dollar per year, however, under no
24 circumstance shall the fee paid by requesting entities exceed
25 fifteen dollars per request.

26 2. For each request requiring the payment of a fee received
27 by the central repository, the requesting entity shall pay a fee
28 of not more than twenty dollars per request for criminal history

1 record information based on a fingerprint search, unless the
2 request is required under the provisions of subdivision (6) of
3 section 210.481, section 210.487, or section 571.101, in which
4 case the fee shall be fourteen dollars.

5 3. A request made under subsections 1 and 2 of this section
6 shall be limited to check and search on one individual. Each
7 request shall be accompanied by a check, warrant, voucher, money
8 order, or electronic payment payable to the state of
9 Missouri-criminal record system or payment shall be made in a
10 manner approved by the highway patrol. The highway patrol may
11 establish procedures for receiving requests for criminal history
12 record information for classification and search for
13 fingerprints, from courts and other entities, and for the payment
14 of such requests. There is hereby established by the treasurer
15 of the state of Missouri a fund to be entitled as the "Criminal
16 Record System Fund". Notwithstanding the provisions of section
17 33.080 to the contrary, if the moneys collected and deposited
18 into this fund are not totally expended annually for the purposes
19 set forth in sections 43.500 to ~~[43.543]~~ 43.651, the unexpended
20 moneys in such fund shall remain in the fund and the balance
21 shall be kept in the fund to accumulate from year to year.

22 43.535. 1. Law enforcement agencies within the state of
23 Missouri may perform a Missouri criminal record review for only
24 open records through the ~~[MULES]~~ central repository's automated
25 criminal history system for the purpose of hiring of municipal or
26 county governmental employees. For each request, other than
27 those related to the administration of criminal justice, the
28 requesting entity shall pay a fee to the central repository,

1 pursuant to section 43.530. For purposes of this section,
2 "requesting entity" shall not be the law enforcement agency
3 unless the request is made by the law enforcement agency for
4 purposes of hiring law enforcement personnel.

5 2. Municipalities and counties may, by local or county
6 ordinance, require the fingerprinting of applicants or licensees
7 in specified occupations for the purpose of receiving criminal
8 history record information by local or county officials. A copy
9 of the ordinance must be forwarded for approval to the Missouri
10 state highway patrol prior to the submission of fingerprints to
11 the central repository. The local or county law enforcement
12 agency shall submit a set of fingerprints of the applicant or
13 licensee, accompanied with the appropriate fees, to the central
14 repository for the purpose of checking the person's criminal
15 history under section 43.540. The set of fingerprints shall be
16 used to search the Missouri criminal records repository and shall
17 be submitted to the Federal Bureau of Investigation to be used
18 for searching the federal criminal history files if necessary.
19 The fingerprints shall be submitted on forms and in the manner
20 prescribed by the Missouri state highway patrol. Notwithstanding
21 the provisions of section 610.120, all records related to any
22 criminal history information discovered shall be accessible and
23 available to the municipal or county officials making the record
24 request.

25 3. All criminal record check information shall be
26 confidential and any person who discloses the information beyond
27 the scope allowed is guilty of a class A misdemeanor.

28 43.540. 1. As used in this section, the following terms

1 mean:

2 (1) [~~"Authorized state agency", a division of state~~
3 ~~government or an office of state government designated by the~~
4 ~~statutes of Missouri to issue or renew a license, permit,~~
5 ~~certification, or registration of authority to a qualified~~
6 ~~entity]~~ "Applicant", a person who:

7 (a) Is actively employed by or seeks employment with a
8 qualified entity;

9 (b) Is actively licensed or seeks licensure with a
10 qualified entity;

11 (c) Actively volunteers or seeks to volunteer with a
12 qualified entity;

13 (d) Is actively contracted with or seeks to contract with a
14 qualified entity; or

15 (e) Owns or operates a qualified entity;

16 (2) "Care", the provision of care, treatment, education,
17 training, instruction, supervision, or recreation;

18 (3) "Missouri criminal record review", a review of criminal
19 history records and sex offender registration records pursuant to
20 sections 589.400 to 589.425 maintained by the Missouri state
21 highway patrol in the Missouri criminal records repository;

22 (4) "Missouri Rap Back program", shall include any type of
23 automatic notification made by the Missouri state highway patrol
24 to a qualified entity indicating that an applicant who is
25 employed, licensed, or otherwise under the purview of that entity
26 has been arrested for a reported criminal offense in Missouri as
27 required under section 43.506;

28 (5) "National criminal record review", a review of the

1 criminal history records maintained by the Federal Bureau of
2 Investigation;

3 ~~[(5)]~~ (6) "National Rap Back program", shall include any
4 type of automatic notification made by the Federal Bureau of
5 Investigation through the Missouri state highway patrol to a
6 qualified entity indicating that an applicant who is employed,
7 licensed, or otherwise under the purview of that entity has been
8 arrested for a reported criminal offense outside the state of
9 Missouri and the fingerprints for that arrest were forwarded to
10 the Federal Bureau of Investigation by the arresting agency;

11 (7) "Patient or resident", a person who by reason of age,
12 illness, disease or physical or mental infirmity receives or
13 requires care or services furnished by ~~[a provider]~~ an applicant,
14 as defined in this section, or who resides or boards in, or is
15 otherwise kept, cared for, treated or accommodated in a facility
16 as defined in section 198.006, for a period exceeding twenty-four
17 consecutive hours;

18 ~~[(6)] "Provider", a person who:~~

19 ~~— (a) Has or may have unsupervised access to children, the~~
20 ~~elderly, or persons with disabilities; and~~

21 ~~— (b) a. Is employed by or seeks employment with a qualified~~
22 ~~entity; or~~

23 ~~— b. Volunteers or seeks to volunteer with a qualified~~
24 ~~entity; or~~

25 ~~— c. Owns or operates a qualified entity;~~

26 ~~— (7)]~~ (8) "Qualified entity", an entity that is:

27 (a) A person, business, or organization, whether public or
28 private, for profit, not for profit, or voluntary, that provides

1 care, care placement, or educational services for children, the
2 elderly, or persons with disabilities as patients or residents,
3 including a business or organization that licenses or certifies
4 others to provide care or care placement services;

5 (b) An office or division of state, county, or municipal
6 government, including a political subdivision or a board or
7 commission designated by statute or approved local ordinance, to
8 issue or renew a license, permit, certification, or registration
9 of authority;

10 (c) An office or division of state, county, or municipal
11 government, including a political subdivision or a board or
12 commission designated by statute or approved local ordinance, to
13 make fitness determinations on applications for state, county, or
14 municipal government employment;

15 (d) A criminal justice agency, including law enforcement
16 agencies that screen persons seeking issuance or renewal of a
17 license, permit, certificate, or registration to purchase or
18 possess a firearm; or

19 (e) Any entity that is authorized to obtain criminal
20 history record information under 28 CFR 20.33;

21 ~~[(8)]~~ (9) "Youth services agency", any public or private
22 agency, school, or association which provides programs, care or
23 treatment for or which exercises supervision over minors.

24 2. ~~[A qualified entity may obtain a Missouri criminal~~
25 ~~record review of a provider from the highway patrol by furnishing~~
26 ~~information on forms and in the manner approved by the highway~~
27 ~~patrol.]~~ The central repository shall have the authority to
28 submit applicant fingerprints to the National Rap Back program to

1 be retained for the purpose of being searched against future
2 submissions to the National Rap Back program, including latent
3 fingerprint searches. Qualified entities may conduct Missouri
4 and national criminal record reviews on applicants and
5 participate in Missouri and National Rap Back programs for the
6 purpose of determining suitability or fitness for a permit,
7 license, or employment, and shall abide by the following
8 requirements:

9 (1) The qualified entity shall register with the Missouri
10 state highway patrol prior to submitting a request for screening
11 under this section. As part of such registration, the qualified
12 entity shall indicate if it chooses to enroll their applicants in
13 the Missouri and National Rap Back programs;

14 (2) Qualified entities shall notify applicants subject to a
15 criminal record review under this section that the applicant's
16 fingerprints shall be retained by the state central repository
17 and the Federal Bureau of Investigation and shall be searched
18 against other fingerprints on file, including latent
19 fingerprints;

20 (3) Qualified entities shall notify applicants subject to
21 enrollment in the National Rap Back program that the applicant's
22 fingerprints, while retained, may continue to be compared against
23 other fingerprints submitted or retained by the Federal Bureau of
24 Investigation, including latent fingerprints;

25 (4) The criminal record review and Rap Back process
26 described in this section shall be voluntary and conform to the
27 requirements established in the National Child Protection Act of
28 1993, as amended, and other applicable state or federal law. As

1 a part of the registration, the qualified entity shall agree to
2 comply with state and federal law and shall indicate so by
3 signing an agreement approved by the Missouri state highway
4 patrol. The Missouri state highway patrol may periodically audit
5 qualified entities to ensure compliance with federal law and this
6 section;

7 (5) A qualified entity shall submit to the Missouri state
8 highway patrol a request for screening on applicants covered
9 under this section using a completed fingerprint card;

10 (6) Each request shall be accompanied by a reasonable fee,
11 as provided in section 43.530, plus the amount required, if any,
12 by the Federal Bureau of Investigation for the national criminal
13 record review and enrollment in the National Rap Back program in
14 compliance with the National Child Protection Act of 1993, as
15 amended, and other applicant state or federal laws;

16 (7) The Missouri state highway patrol shall provide,
17 directly to the qualified entity, the applicant's state criminal
18 history records that are not exempt from disclosure under chapter
19 610 or are otherwise confidential under law;

20 (8) The national criminal history data shall be available
21 to qualified entities to use only for the purpose of screening
22 applicants as described under this section. The Missouri state
23 highway patrol shall provide the applicant's national criminal
24 history record information directly to the qualified entity;

25 (9) The determination whether the criminal history record
26 shows that the applicant has been convicted of, or has a pending
27 charge, for any crime that bears upon the fitness of the
28 applicant to have responsibility for the safety and well-being of

1 children, the elderly, or disabled persons shall be made solely
2 by the qualified entity. This section shall not require the
3 Missouri state highway patrol to make such a determination on
4 behalf of any qualified entity;

5 (10) The qualified entity shall notify the applicant, in
6 writing, of his or her right to obtain a copy of any criminal
7 record review, including the criminal history records, if any,
8 contained in the report, and of the applicant's right to
9 challenge the accuracy and completeness of any information
10 contained in any such report and to obtain a determination as to
11 the validity of such challenge before a final determination
12 regarding the applicant is made by the qualified entity reviewing
13 the criminal history information. A qualified entity that is
14 required by law to apply screening criteria, including any right
15 to contest or request an exemption from disqualification, shall
16 apply such screening criteria to the state and national criminal
17 history record information received from the Missouri state
18 highway patrol for those applicants subject to the required
19 screening; and

20 (11) Failure to obtain the information authorized under
21 this section with respect to an applicant shall not be used as
22 evidence in any negligence action against a qualified entity.
23 The state, any political subdivision of the state, or any agency,
24 officer, or employee of the state or a political subdivision
25 shall not be liable for damages for providing the information
26 requested under this section.

27 ~~3. [A qualified entity may request a Missouri criminal~~
28 ~~record review and a national criminal record review of a provider~~

1 ~~through an authorized state agency. No authorized state agency~~
2 ~~is required by this section to process Missouri or national~~
3 ~~criminal record reviews for a qualified entity, however, if an~~
4 ~~authorized state agency agrees to process Missouri and national~~
5 ~~criminal record reviews for a qualified entity, the qualified~~
6 ~~entity shall provide to the authorized state agency on forms and~~
7 ~~in a manner approved by the highway patrol the following:~~

8 ~~— (1) Two sets of fingerprints of the provider if a national~~
9 ~~criminal record review is requested;~~

10 ~~— (2) A statement signed by the provider which contains:~~

11 ~~— (a) The provider's name, address, and date of birth;~~

12 ~~— (b) Whether the provider has been convicted of or has pled~~
13 ~~guilty to a crime which includes a suspended imposition of~~
14 ~~sentence;~~

15 ~~— (c) If the provider has been convicted of or has pled~~
16 ~~guilty to a crime, a description of the crime, and the~~
17 ~~particulars of the conviction or plea;~~

18 ~~— (d) The authority of the qualified entity to check the~~
19 ~~provider's criminal history;~~

20 ~~— (e) The right of the provider to review the report received~~
21 ~~by the qualified entity; and~~

22 ~~— (f) The right of the provider to challenge the accuracy of~~
23 ~~the report. If the challenge is to the accuracy of the criminal~~
24 ~~record review, the challenge shall be made to the highway~~
25 ~~patrol.] The criminal record review shall include the submission~~
26 ~~of fingerprints to:~~

27 ~~(1) The Missouri state highway patrol, who shall conduct a~~
28 ~~Missouri criminal record review, including closed record~~

1 information under section 610.120; and

2 (2) The Missouri state highway patrol shall also forward a
3 copy of the applicant's fingerprints to the Federal Bureau of
4 Investigation for a national criminal record review.

5 ~~4. [The authorized state agency shall forward the required~~
6 ~~forms and fees to the highway patrol. The results of the record~~
7 ~~review shall be forwarded to the authorized state agency who will~~
8 ~~notify the qualified entity. The authorized state agency may~~
9 ~~assess a fee to the qualified entity to cover the cost of~~
10 ~~handling the criminal record review and may establish an account~~
11 ~~solely for the collection and dissemination of fees associated~~
12 ~~with the criminal record reviews.]~~ The applicant subject to a
13 criminal record review shall provide the following information to
14 the qualified entity:

15 (1) Consent to obtain the applicant's fingerprints, conduct
16 the criminal record review, and participate in the Missouri and
17 National Rap Back programs;

18 (2) Consent to obtain the identifying information required
19 to conduct the criminal record review, which may include, but not
20 be limited to:

21 (a) Name;

22 (b) Date of birth;

23 (c) Height;

24 (d) Weight;

25 (e) Eye color;

26 (f) Hair color;

27 (g) Gender;

28 (h) Race;

- 1 (i) Place of birth;
- 2 (j) Social Security number; and
- 3 (k) The applicant's photo.

4 5. Any information received by an authorized state agency
5 or a qualified entity pursuant to the provisions of this section
6 shall be used solely for internal purposes in determining the
7 suitability of ~~[a provider]~~ an applicant. The dissemination of
8 criminal history information from the Federal Bureau of
9 Investigation beyond the authorized state agency or related
10 governmental entity is prohibited. All criminal record check
11 information shall be confidential and any person who discloses
12 the information beyond the scope allowed is guilty of a class A
13 misdemeanor.

14 6. A qualified entity enrolled in either the Missouri or
15 National Rap Back programs shall be notified by the Missouri
16 state highway patrol that a new arrest has been reported on an
17 applicant who is employed, licensed, or otherwise under the
18 purview of the qualified entity. Upon receiving the Rap Back
19 notification, if the qualified entity deems that the applicant is
20 still serving in an active capacity, the entity may request and
21 receive the individual's updated criminal history record. This
22 process shall only occur if:

23 (1) The agency has abided by all procedures and rules
24 promulgated by the Missouri state highway patrol and Federal
25 Bureau of Investigation regarding the Missouri and National Rap
26 Back programs;

27 (2) The individual upon whom the Rap Back notification is
28 being made has previously had a Missouri and national criminal

1 record review completed for the qualified entity under this
2 section within the previous six years; and

3 (3) The individual upon whom the Rap Back notification is
4 being made is a current employee, licensee, or otherwise still
5 actively under the purview of the qualified entity.

6 7. The highway patrol shall make available or approve the
7 necessary forms, procedures, and agreements necessary to
8 implement the provisions of this section.

9 43.543. Any state agency listed in section 621.045, the
10 division of professional registration of the department of
11 insurance, financial institutions and professional registration,
12 the department of social services, the supreme court of Missouri,
13 the state courts administrator, the department of elementary and
14 secondary education, the department of natural resources, the
15 Missouri lottery, the Missouri gaming commission, or any state,
16 municipal, or county agency which screens persons seeking
17 employment with such agencies or issuance or renewal of a
18 license, permit, certificate, or registration of authority from
19 such agencies; or any state, municipal, or county agency or
20 committee, or state school of higher education which is
21 authorized by state statute or executive order, or local or
22 county ordinance to screen applicants or candidates seeking or
23 considered for employment, assignment, contracting, or
24 appointment to a position within state, municipal, or county
25 government; or the Missouri peace officers standards and
26 training, POST, commission which screens persons, not employed by
27 a criminal justice agency, who seek enrollment or access into a
28 certified POST training academy police school, or persons seeking

1 a permit to purchase or possess a firearm for employment as a
2 watchman, security personnel, or private investigator; or law
3 enforcement agencies which screen persons seeking issuance or
4 renewal of a license, permit, certificate, or registration to
5 purchase or possess a firearm shall submit [~~two sets of~~
6 fingerprints to the Missouri state highway patrol, Missouri
7 criminal records repository, for the purpose of checking the
8 person's criminal history under section 43.540. The [~~first set~~
9 ~~of~~] fingerprints shall be used to search the Missouri criminal
10 records repository and the [~~second set shall be submitted to the~~
11 Federal Bureau of Investigation to be used for searching the
12 federal criminal history files if necessary. The fingerprints
13 shall be submitted on forms and in the manner prescribed by the
14 Missouri state highway patrol. Fees assessed for the searches
15 shall be paid by the applicant or in the manner prescribed by the
16 Missouri state highway patrol. Notwithstanding the provisions of
17 section 610.120, all records related to any criminal history
18 information discovered shall be accessible and available to the
19 state, municipal, or county agency making the record request.

20 43.546. 1. Any state agency, board, or commission may
21 require the fingerprinting of applicants in specified occupations
22 or appointments within the state agency, board, or commission for
23 the purpose of positive identification and receiving criminal
24 history record information when determining an applicant's
25 ability or fitness to serve in such occupation or appointment.

26 2. In order to facilitate the criminal background check
27 under subsection 1 of this section on any person employed or
28 appointed by a state agency, board, or commission, and in

1 accordance with section 43.543, the applicant or employee shall
2 submit a set of fingerprints collected under the standards
3 determined by the Missouri highway patrol. The fingerprints and
4 accompanying fees, unless otherwise arranged, shall be forwarded
5 to the highway patrol to be used to search the state criminal
6 history repository and the fingerprints shall be forwarded to the
7 Federal Bureau of Investigation for a national criminal
8 background check under section 43.540. Notwithstanding the
9 provisions of section 610.120, all records related to any
10 criminal history information discovered shall be accessible and
11 available to the state agency making the request.

12 43.547. 1. The Missouri state highway patrol, at the
13 direction of the governor, shall conduct name or fingerprint
14 background investigations of gubernatorial appointees. The
15 governor's directive shall state whether the background
16 investigation shall be a name background investigation or a
17 fingerprint background investigation. In addition, the patrol
18 may, at the governor's direction, conduct other appropriate
19 investigations to determine if an applicant or appointee is in
20 compliance with section 105.262, and other necessary inquiries to
21 determine the person's suitability for positions of public trust.

22 2. In order to facilitate the fingerprint background
23 investigation under subsection 1 of this section, and in
24 accordance with the provisions of section ~~[43.543]~~ 43.540, the
25 appointee shall submit a set of fingerprints collected under the
26 standards determined by the Missouri highway patrol. The
27 fingerprints and accompanying fees, unless otherwise arranged,
28 shall be forwarded to the highway patrol to be used to search the

1 state criminal history repository and the fingerprints shall be
2 forwarded to the Federal Bureau of Investigation for a national
3 criminal background check. Any background investigation
4 conducted at the direction of the governor under subsection 1 of
5 this section may include criminal history record information and
6 other source information obtained by the highway patrol.

7 192.2495. 1. For the purposes of this section, the term
8 "provider" means any person, corporation or association who:

9 (1) Is licensed as an operator pursuant to chapter 198;

10 (2) Provides in-home services under contract with the
11 department of social services or its divisions;

12 (3) Employs health care providers as defined in section
13 376.1350 for temporary or intermittent placement in health care
14 facilities;

15 (4) Is an entity licensed pursuant to chapter 197;

16 (5) Is a public or private facility, day program,
17 residential facility or specialized service operated, funded or
18 licensed by the department of mental health; or

19 (6) Is a licensed adult day care provider.

20 2. For the purpose of this section "patient or resident"
21 has the same meaning as such term is defined in section 43.540.

22 3. Prior to allowing any person who has been hired as a
23 full-time, part-time or temporary position to have contact with
24 any patient or resident the provider shall, or in the case of
25 temporary employees hired through or contracted for an employment
26 agency, the employment agency shall prior to sending a temporary
27 employee to a provider:

28 (1) Request a criminal background check as provided in

1 section 43.540. Completion of an inquiry to the highway patrol
2 for criminal records that are available for disclosure to a
3 provider for the purpose of conducting an employee criminal
4 records background check shall be deemed to fulfill the
5 provider's duty to conduct employee criminal background checks
6 pursuant to this section; except that, completing the inquiries
7 pursuant to this subsection shall not be construed to exempt a
8 provider from further inquiry pursuant to common law requirements
9 governing due diligence. If an applicant has not resided in this
10 state for five consecutive years prior to the date of his or her
11 application for employment, the provider shall request a
12 nationwide check for the purpose of determining if the applicant
13 has a prior criminal history in other states. The fingerprint
14 cards and any required fees shall be sent to the highway patrol's
15 central repository. The ~~first set of~~ fingerprints shall be
16 used for searching the state repository of criminal history
17 information. If no identification is made, ~~the second set of~~
18 fingerprints shall be forwarded to the Federal Bureau of
19 Investigation ~~Identification Division,~~ for the searching of
20 the federal criminal history files. The patrol shall notify the
21 submitting state agency of any criminal history information or
22 lack of criminal history information discovered on the
23 individual. The provisions relating to applicants for employment
24 who have not resided in this state for five consecutive years
25 shall apply only to persons who have no employment history with a
26 licensed Missouri facility during that five-year period.
27 Notwithstanding the provisions of section 610.120, all records
28 related to any criminal history information discovered shall be

1 accessible and available to the provider making the record
2 request; and

3 (2) Make an inquiry to the department of health and senior
4 services whether the person is listed on the employee
5 disqualification list as provided in section 192.2490.

6 4. When the provider requests a criminal background check
7 pursuant to section 43.540, the requesting entity may require
8 that the applicant reimburse the provider for the cost of such
9 record check. When a provider requests a nationwide criminal
10 background check pursuant to subdivision (1) of subsection 3 of
11 this section, the total cost to the provider of any background
12 check required pursuant to this section shall not exceed five
13 dollars which shall be paid to the state. State funding and the
14 obligation of a provider to obtain a nationwide criminal
15 background check shall be subject to the availability of
16 appropriations.

17 5. An applicant for a position to have contact with
18 patients or residents of a provider shall:

19 (1) Sign a consent form as required by section 43.540 so
20 the provider may request a criminal records review;

21 (2) Disclose the applicant's criminal history. For the
22 purposes of this subdivision "criminal history" includes any
23 conviction or a plea of guilty to a misdemeanor or felony charge
24 and shall include any suspended imposition of sentence, any
25 suspended execution of sentence or any period of probation or
26 parole;

27 (3) Disclose if the applicant is listed on the employee
28 disqualification list as provided in section 192.2490; and

1 (4) Disclose if the applicant is listed on any of the
2 background checks in the family care safety registry established
3 under section 210.903. A provider not otherwise prohibited from
4 employing an individual listed on such background checks may deny
5 employment to an individual listed on any of the background
6 checks in such registry.

7 6. An applicant who knowingly fails to disclose his or her
8 criminal history as required in subsection 5 of this section is
9 guilty of a class A misdemeanor. A provider is guilty of a class
10 A misdemeanor if the provider knowingly hires or retains a person
11 to have contact with patients or residents and the person has
12 been found guilty in this state or any other state or has been
13 found guilty of a crime, which if committed in Missouri would be
14 a class A or B felony violation of chapter 565, 566 or 569, or
15 any violation of subsection 3 of section 198.070 or section
16 568.020.

17 7. Any in-home services provider agency or home health
18 agency shall be guilty of a class A misdemeanor if such agency
19 knowingly employs a person to provide in-home services or home
20 health services to any in-home services client or home health
21 patient and such person either refuses to register with the
22 family care safety registry or ~~[is listed on any of the~~
23 ~~background check lists in the family care safety registry~~
24 ~~pursuant to sections 210.900 to 210.937]~~ if such person:

25 (1) Has any of the disqualifying factors listed in
26 subsection 6 of this section;

27 (2) Has been found guilty of or pleaded guilty or nolo
28 contendere to any felony offense under chapters 195 or 579;

1 (3) Has been found guilty of or pleaded guilty or nolo
2 contendere to any felony offense under section 568.045, 568.050,
3 568.060, 568.175, 570.023, 570.025, 570.030, 570.040 as it
4 existed prior to January 1, 2017, 570.090, 570.145, 570.223,
5 575.230, or 576.080;

6 (4) Has been found guilty of or pleaded guilty or nolo
7 contendere to a violation of section 577.010 or 577.012 and who
8 is alleged and found by the court to be an aggravated or chronic
9 offender under section 577.023;

10 (5) Has been found guilty of or pleaded guilty or nolo
11 contendere to any offense requiring registration under section
12 589.400;

13 (6) Is listed on the department of health and senior
14 services employee disqualification list under section 192.2490;

15 (7) Is listed on the department of mental health employee
16 disqualification registry under section 630.170; or

17 (8) Has a finding on the child abuse and neglect registry
18 under sections 210.109 to 210.183.

19 8. The highway patrol shall examine whether protocols can
20 be developed to allow a provider to request a statewide
21 fingerprint criminal records review check through local law
22 enforcement agencies.

23 9. A provider may use a private investigatory agency rather
24 than the highway patrol to do a criminal history records review
25 check, and alternatively, the applicant pays the private
26 investigatory agency such fees as the provider and such agency
27 shall agree.

28 10. Except for the hiring restriction based on the

1 department of health and senior services employee
2 disqualification list established pursuant to section 192.2490,
3 the department of health and senior services shall promulgate
4 rules and regulations to waive the hiring restrictions pursuant
5 to this section for good cause. For purposes of this section,
6 "good cause" means the department has made a determination by
7 examining the employee's prior work history and other relevant
8 factors that such employee does not present a risk to the health
9 or safety of residents.

10 208.909. 1. Consumers receiving personal care assistance
11 services shall be responsible for:

12 (1) Supervising their personal care attendant;

13 (2) Verifying wages to be paid to the personal care
14 attendant;

15 (3) Preparing and submitting time sheets, signed by both
16 the consumer and personal care attendant, to the vendor on a
17 biweekly basis;

18 (4) Promptly notifying the department within ten days of
19 any changes in circumstances affecting the personal care
20 assistance services plan or in the consumer's place of residence;

21 (5) Reporting any problems resulting from the quality of
22 services rendered by the personal care attendant to the vendor.

23 If the consumer is unable to resolve any problems resulting from
24 the quality of service rendered by the personal care attendant
25 with the vendor, the consumer shall report the situation to the
26 department; and

27 (6) Providing the vendor with all necessary information to
28 complete required paperwork for establishing the employer

1 identification number.

2 2. Participating vendors shall be responsible for:

3 (1) Collecting time sheets or reviewing reports of
4 delivered services and certifying the accuracy thereof;

5 (2) The Medicaid reimbursement process, including the
6 filing of claims and reporting data to the department as required
7 by rule;

8 (3) Transmitting the individual payment directly to the
9 personal care attendant on behalf of the consumer;

10 (4) Monitoring the performance of the personal care
11 assistance services plan.

12 3. No state or federal financial assistance shall be
13 authorized or expended to pay for services provided to a consumer
14 under sections 208.900 to 208.927, if the primary benefit of the
15 services is to the household unit, or is a household task that
16 the members of the consumer's household may reasonably be
17 expected to share or do for one another when they live in the
18 same household, unless such service is above and beyond typical
19 activities household members may reasonably provide for another
20 household member without a disability.

21 4. No state or federal financial assistance shall be
22 authorized or expended to pay for personal care assistance
23 services provided by a personal care attendant who ~~is listed on~~
24 ~~any of the background check lists in the family care safety~~
25 ~~registry under sections 210.900 to 210.937]~~ has not undergone the
26 background screening process under section 192.2495. If the
27 personal care attendant has a disqualifying finding under section
28 192.2495, no state or federal assistance shall be made, unless a

1 good cause waiver is first obtained from the department in
2 accordance with section 192.2495.

3 5. (1) All vendors shall, by July 1, 2015, have, maintain,
4 and use a telephone tracking system for the purpose of reporting
5 and verifying the delivery of consumer-directed services as
6 authorized by the department of health and senior services or its
7 designee. Use of such a system prior to July 1, 2015, shall be
8 voluntary. The telephone tracking system shall be used to
9 process payroll for employees and for submitting claims for
10 reimbursement to the MO HealthNet division. At a minimum, the
11 telephone tracking system shall:

12 (a) Record the exact date services are delivered;

13 (b) Record the exact time the services begin and exact time
14 the services end;

15 (c) Verify the telephone number from which the services are
16 registered;

17 (d) Verify that the number from which the call is placed is
18 a telephone number unique to the client;

19 (e) Require a personal identification number unique to each
20 personal care attendant;

21 (f) Be capable of producing reports of services delivered,
22 tasks performed, client identity, beginning and ending times of
23 service and date of service in summary fashion that constitute
24 adequate documentation of service; and

25 (g) Be capable of producing reimbursement requests for
26 consumer approval that assures accuracy and compliance with
27 program expectations for both the consumer and vendor.

28 (2) The department of health and senior services, in

1 collaboration with other appropriate agencies, including centers
2 for independent living, shall establish telephone tracking system
3 pilot projects, implemented in two regions of the state, with one
4 in an urban area and one in a rural area. Each pilot project
5 shall meet the requirements of this section and section 208.918.
6 The department of health and senior services shall, by December
7 31, 2013, submit a report to the governor and general assembly
8 detailing the outcomes of these pilot projects. The report shall
9 take into consideration the impact of a telephone tracking system
10 on the quality of the services delivered to the consumer and the
11 principles of self-directed care.

12 (3) As new technology becomes available, the department may
13 allow use of a more advanced tracking system, provided that such
14 system is at least as capable of meeting the requirements of this
15 subsection.

16 (4) The department of health and senior services shall
17 promulgate by rule the minimum necessary criteria of the
18 telephone tracking system. Any rule or portion of a rule, as
19 that term is defined in section 536.010, that is created under
20 the authority delegated in this section shall become effective
21 only if it complies with and is subject to all of the provisions
22 of chapter 536 and, if applicable, section 536.028. This section
23 and chapter 536 are nonseverable and if any of the powers vested
24 with the general assembly pursuant to chapter 536 to review, to
25 delay the effective date, or to disapprove and annul a rule are
26 subsequently held unconstitutional, then the grant of rulemaking
27 authority and any rule proposed or adopted after August 28, 2010,
28 shall be invalid and void.

1 6. In the event that a consensus between centers for
2 independent living and representatives from the executive branch
3 cannot be reached, the telephony report issued to the general
4 assembly and governor shall include a minority report which shall
5 detail those elements of substantial dissent from the main
6 report.

7 7. No interested party, including a center for independent
8 living, shall be required to contract with any particular vendor
9 or provider of telephony services nor bear the full cost of the
10 pilot program.

11 210.025. 1. An applicant child care provider; persons
12 employed by the applicant child care provider for compensation,
13 including contract employees or self-employed individuals;
14 individuals or volunteers whose activities involve the care or
15 supervision of children for the applicant child care provider or
16 unsupervised access to children who are cared for or supervised
17 by the applicant child care provider; or individuals residing in
18 the applicant's family child care home who are seventeen years of
19 age or older shall be required to submit to a criminal background
20 check under section 43.540 prior to an applicant being granted a
21 registration and every five years thereafter and an annual check
22 of the central registry for child abuse established in section
23 210.109 in order for the applicant to qualify for receipt of
24 state or federal funds for providing child-care services [in the
25 home] either by direct payment or through reimbursement to a
26 child-care beneficiary[; an applicant and any person over the age
27 of seventeen who is living in the applicant's home shall be
28 required to submit to a criminal background check pursuant to

1 ~~section 43.540 and a check of the central registry for child~~
2 ~~abuse established in section 210.145. Effective January 1, 2001,~~
3 ~~the requirements of this subsection or subsection 2 of this~~
4 ~~section shall be satisfied through registration with the family~~
5 ~~care safety registry established in sections 210.900 to 210.936].~~
6 Any costs associated with such checks shall be paid by the
7 applicant.

8 2. Upon receipt of an application for state or federal
9 funds for providing child-care services in the home, the [~~family~~
10 ~~support~~] children's division shall:

11 (1) Determine if a finding of child abuse or neglect by
12 probable cause prior to August 28, 2004, or by a preponderance of
13 the evidence after August 28, 2004, involving the applicant or
14 any person over the age of seventeen who is living in the
15 applicant's home has been recorded pursuant to section 210.145 or
16 210.221;

17 (2) Determine if the applicant or any person over the age
18 of seventeen who is living in the applicant's home has been
19 refused licensure or has experienced licensure suspension or
20 revocation pursuant to section 210.221 or 210.496; and

21 (3) Upon initial application, require the applicant to
22 submit to fingerprinting and request a criminal background check
23 of the applicant and any person over the age of seventeen who is
24 living in the applicant's home pursuant to section 43.540 and
25 section 210.487, and inquire of the applicant whether any
26 children less than seventeen years of age residing in the
27 applicant's home have ever been certified as an adult and
28 convicted of, or pled guilty or nolo contendere to any crime.

1 3. Except as otherwise provided in subsection 4 of this
2 section, upon completion of the background checks in subsection 2
3 of this section, an applicant shall be denied state or federal
4 funds for providing child care if such applicant, any person over
5 the age of seventeen who is living in the applicant's home, and
6 any child less than seventeen years of age who is living in the
7 applicant's home and who the division has determined has been
8 certified as an adult for the commission of a crime:

9 (1) Has had a finding of child abuse or neglect by probable
10 cause prior to August 28, 2004, or by a preponderance of the
11 evidence after August 28, 2004, pursuant to section 210.145 or
12 section 210.152;

13 (2) Has been refused licensure or has experienced licensure
14 suspension or revocation pursuant to section 210.496;

15 (3) Has pled guilty or nolo contendere to or been found
16 guilty of any felony for an offense against the person as defined
17 by chapter 565, or any other offense against the person involving
18 the endangerment of a child as prescribed by law; of any
19 misdemeanor or felony for a sexual offense as defined by chapter
20 566; of any misdemeanor or felony for an offense against the
21 family as defined in chapter 568, with the exception of the sale
22 of fireworks, as defined in section 320.110, to a child under the
23 age of eighteen; of any misdemeanor or felony for pornography or
24 related offense as defined by chapter 573; or of any similar
25 crime in any federal, state, municipal or other court of similar
26 jurisdiction of which the director has knowledge or any offenses
27 or reports which will disqualify an applicant from receiving
28 state or federal funds.

1 4. An applicant shall be given an opportunity by the
2 division to offer any extenuating or mitigating circumstances
3 regarding the findings, refusals or violations against such
4 applicant or any person over the age of seventeen or less than
5 seventeen who is living in the applicant's home listed in
6 subsection 2 of this section. Such extenuating and mitigating
7 circumstances may be considered by the division in its
8 determination of whether to permit such applicant to receive
9 state or federal funds for providing child care in the home.

10 5. An applicant who has been denied state or federal funds
11 for providing child care in the home may appeal such denial
12 decision in accordance with the provisions of section 208.080.

13 6. If an applicant is denied state or federal funds for
14 providing child care in the home based on the background check
15 results for any person over the age of seventeen who is living in
16 the applicant's home, the applicant shall not apply for such
17 funds until such person is no longer living in the applicant's
18 home.

19 7. Any rule or portion of a rule, as that term is defined
20 in section 536.010, that is created under the authority delegated
21 in this section shall become effective only if it complies with
22 and is subject to all of the provisions of chapter 536 and, if
23 applicable, section 536.028. All rulemaking authority delegated
24 prior to August 28, 1999, is of no force and effect and repealed.
25 Nothing in this section shall be interpreted to repeal or affect
26 the validity of any rule filed or adopted prior to August 28,
27 1999, if it fully complied with all applicable provisions of law.
28 This section and chapter 536 are nonseverable and if any of the

1 powers vested with the general assembly pursuant to chapter 536
2 to review, to delay the effective date or to disapprove and annul
3 a rule are subsequently held unconstitutional, then the grant of
4 rulemaking authority and any rule proposed or adopted after
5 August 28, 1999, shall be invalid and void.

6 8. (1) The provisions of subsection 1 of this section
7 shall not apply to any child care facility, as defined in section
8 210.201, maintained or operated under the exclusive control of a
9 religious organization, as described in subdivision (5) of
10 subsection 1 of section 210.211, unless such facility is a
11 recipient of federal funds for providing care for children,
12 except for federal funds for those programs that meet the
13 requirements for participation in the Child and Adult Care Food
14 Program under 42 U.S.C. Section 1766.

15 (2) The provisions of subsection 1 of this section, as
16 enacted by the ninety-ninth general assembly, second regular
17 session, and any rules or regulations promulgated under such
18 section, shall expire if 42 U.S.C. Section 9858f, as enacted by
19 the Child Care and Development Block Grant (CCDBG) Act of 2014,
20 and 45 CFR 98.43 are repealed or if Missouri no longer receives
21 federal funds from the CCDBG.

22 210.254. 1. Child-care facilities operated by religious
23 organizations pursuant to the exempt status recognized in
24 subdivision (5) of section 210.211 shall upon enrollment of any
25 child provide the parent or guardian enrolling the child two
26 copies of a notice of parental responsibility, one copy of which
27 shall be retained in the files of the facility after the
28 enrolling parent acknowledges, by signature, having read and

1 accepted the information contained therein.

2 2. The notice of parental responsibility shall include the
3 following:

4 (1) Notification that the child-care facility is exempt as
5 a religious organization from state licensing and therefore not
6 inspected or supervised by the department of health and senior
7 services other than as provided herein and that the facility has
8 been inspected by those designated in section 210.252 and is
9 complying with the fire, health and sanitation requirements of
10 sections 210.252 to 210.257;

11 (2) The names, addresses and telephone numbers of agencies
12 and authorities which inspect the facility for fire, health and
13 safety and the date of the most recent inspection by each;

14 (3) The staff/child ratios for enrolled children under two
15 years of age, for children ages two to four and for those five
16 years of age and older as required by the department of health
17 and senior services regulations in licensed facilities, the
18 standard ratio of staff to number of children for each age level
19 maintained in the exempt facility, and the total number of
20 children to be enrolled by the facility;

21 (4) Notification that background checks have been conducted
22 ~~[on each individual caregiver and all other personnel at the~~
23 ~~facility. The background check shall be conducted upon~~
24 ~~employment and every two years thereafter on each individual~~
25 ~~caregiver and all other personnel at the facility. Such~~
26 ~~background check shall include a screening for child abuse or~~
27 ~~neglect through the children's division, and a criminal record~~
28 ~~review through the Missouri highway patrol pursuant to section~~

1 ~~43.540. The fee for the criminal record review shall be limited~~
2 ~~to the actual costs incurred by the Missouri highway patrol in~~
3 ~~conducting such review not to exceed ten dollars]~~ under the
4 provisions of section 210.1080;

5 (5) The disciplinary philosophy and policies of the
6 child-care facility; and

7 (6) The educational philosophy and policies of the
8 child-care facility.

9 3. A copy of notice of parental responsibility, signed by
10 the principal operating officer of the exempt child-care facility
11 and the individual primarily responsible for the religious
12 organization conducting the child-care facility and copies of the
13 annual fire and safety inspections shall be filed annually during
14 the month of August with the ~~[director of the]~~ department of
15 health and senior services. ~~[Exempt child care facilities which~~
16 ~~begin operation after August 28, 1993, shall file such notice at~~
17 ~~least five days prior to starting to operate.]~~

18 210.258. The provisions of this section and section 210.259
19 apply to a child care facility maintained or operated under the
20 exclusive control of a religious organization. Nothing in
21 sections 210.252 to 210.257 shall be construed to authorize the
22 department of health and senior services or any other
23 governmental entity:

24 (1) To interfere with the program, curriculum, ministry,
25 teaching or instruction offered in a child care facility;

26 (2) To interfere with the selection, certification, minimal
27 formal educational degree requirements, supervision or terms of
28 employment of a facility's personnel;

1 (3) To interfere with the selection of individuals sitting
2 on any governing board of a child care facility;

3 (4) To interfere with the selection of children enrolled in
4 a child care facility; or

5 (5) To prohibit the use of corporal punishment. However,
6 the department of health and senior services may require the
7 child care facility to provide the parent or guardian enrolling a
8 child in the facility a written explanation of the disciplinary
9 philosophy and policies of the child care facility.

10
11 Nothing in subdivisions (2) and (3) of this section shall be
12 interpreted to relieve a child care facility of its duties and
13 obligations under section 210.1080, or to interfere with the
14 department's duties and obligations under said section.

15 210.482. 1. If the emergency placement of a child in a
16 private home is necessary due to the unexpected absence of the
17 child's parents, legal guardian, or custodian, the juvenile court
18 or children's division:

19 (1) May request that a local or state law enforcement
20 agency or juvenile officer, subject to any required federal
21 authorization, immediately conduct a name-based criminal history
22 record check to include full orders of protection and outstanding
23 warrants of each person over the age of seventeen residing in the
24 home by using the Missouri uniform law enforcement system (MULES)
25 and the National Crime Information Center to access the
26 Interstate Identification Index maintained by the Federal Bureau
27 of Investigation; and

28 (2) Shall determine or, in the case of the juvenile court,

1 shall request the division to determine whether any person over
2 the age of seventeen years residing in the home is listed on the
3 child abuse and neglect registry. For any children less than
4 seventeen years of age residing in the home, the children's
5 division shall inquire of the person with whom an emergency
6 placement of a child will be made whether any children less than
7 seventeen years of age residing in the home have ever been
8 certified as an adult and convicted of or pled guilty or nolo
9 contendere to any crime.

10 2. If a name-based search has been conducted pursuant to
11 subsection 1 of this section, within fifteen calendar days after
12 the emergency placement of the child in the private home, and if
13 the private home has not previously been approved as a foster or
14 adoptive home, all persons over the age of seventeen residing in
15 the home and all children less than seventeen residing in the
16 home who the division has determined have been certified as an
17 adult for the commission of a crime shall report to a local law
18 enforcement agency for the purpose of providing [~~three sets of~~]
19 fingerprints [~~each~~] and accompanying fees, pursuant to [~~section~~]
20 sections 43.530 and 43.540. [~~One set of fingerprints shall be~~
21 ~~used by the highway patrol to search the criminal history~~
22 ~~repository, one set shall be forwarded to the Federal Bureau of~~
23 ~~Investigation for searching the federal criminal history files,~~
24 ~~and one set shall be forwarded to and retained by the division.]
25 Results of the checks shall be provided to the juvenile court or
26 children's division office requesting such information. Any
27 child placed in emergency placement in a private home shall be
28 removed immediately if any person residing in the home fails to~~

1 provide fingerprints after being requested to do so, unless the
2 person refusing to provide fingerprints ceases to reside in the
3 private home.

4 3. If the placement of a child is denied as a result of a
5 name-based criminal history check and the denial is contested,
6 all persons over the age of seventeen residing in the home and
7 all children less than seventeen years of age residing in the
8 home who the division has determined have been certified as an
9 adult for the commission of a crime shall, within fifteen
10 calendar days, submit to the juvenile court or the children's
11 division ~~[three sets of]~~ fingerprints in the same manner
12 described in subsection 2 of this section, accompanying fees, and
13 written permission authorizing the juvenile court or the
14 children's division to forward the fingerprints to the state
15 criminal record repository for submission to the Federal Bureau
16 of Investigation. ~~[One set of fingerprints shall be used by the
17 highway patrol to search the criminal history repository, one set
18 shall be forwarded to the Federal Bureau of Investigation for
19 searching the federal criminal history files, and one set shall
20 be retained by the division.]~~

21 4. No person who submits fingerprints under this section
22 shall be required to submit additional fingerprints under this
23 section or section 210.487 unless the original fingerprints
24 retained by the division are lost or destroyed.

25 5. Subject to appropriation, the total cost of
26 fingerprinting required by this section may be paid by the state,
27 including reimbursement of persons incurring fingerprinting costs
28 under this section.

1 6. For the purposes of this section, "emergency placement"
2 refers to those limited instances when the juvenile court or
3 children's division is placing a child in the home of private
4 individuals, including neighbors, friends, or relatives, as a
5 result of a sudden unavailability of the child's primary
6 caretaker.

7 210.487. 1. When conducting investigations of persons for
8 the purpose of foster parent licensing, the division shall:

9 (1) Conduct a search for all persons over the age of
10 seventeen in the applicant's household and for any child less
11 than seventeen years of age residing in the applicant's home who
12 the division has determined has been certified as an adult for
13 the commission of a crime for evidence of full orders of
14 protection. The office of state courts administrator shall allow
15 access to the automated court information system by the division.
16 The clerk of each court contacted by the division shall provide
17 the division information within ten days of a request; and

18 (2) Obtain [~~three sets of~~] fingerprints for any person over
19 the age of seventeen in the applicant's household and for any
20 child less than seventeen years of age residing in the
21 applicant's home who the division has determined has been
22 certified as an adult for the commission of a crime in the same
23 manner set forth in subsection 2 of section 210.482. [~~One set of~~
24 ~~fingerprints shall be used by the highway patrol to search the~~
25 ~~criminal history repository, one set shall be forwarded to the~~
26 ~~Federal Bureau of Investigation for searching the federal~~
27 ~~criminal history files, and one set shall be forwarded to and~~
28 ~~retained by the division.~~] The highway patrol shall assist the

1 division and provide the criminal fingerprint background
2 information, upon request under section 43.540; and

3 (3) Determine whether any person over the age of seventeen
4 residing in the home and any child less than seventeen years of
5 age residing in the applicant's home who the division has
6 determined has been certified as an adult for the commission of a
7 crime is listed on the child abuse and neglect registry. For any
8 children less than seventeen years of age residing in the
9 applicant's home, the children's division shall inquire of the
10 applicant whether any children less than seventeen years of age
11 residing in the home have ever been certified as an adult and
12 been convicted of or pled guilty or nolo contendere to any crime.

13 2. After the initial investigation is completed under
14 subsection 1 of this section:

15 (1) No person who submits fingerprints under subsection 1
16 of this section or section 210.482 shall be required to submit
17 additional fingerprints under this section or section 210.482
18 unless the original fingerprints retained by the division are
19 lost or destroyed; and

20 (2) The children's division and the department of health
21 and senior services may waive the requirement for a fingerprint
22 background check for any subsequent recertification.

23 3. Subject to appropriation, the total cost of
24 fingerprinting required by this section may be paid by the state,
25 including reimbursement of persons incurring fingerprinting costs
26 under this section.

27 4. The division may make arrangements with other executive
28 branch agencies to obtain any investigative background

1 information.

2 5. The division may promulgate rules that are necessary to
3 implement the provisions of this section. Any rule or portion of
4 a rule, as that term is defined in section 536.010, that is
5 created under the authority delegated in this section shall
6 become effective only if it complies with and is subject to all
7 of the provisions of chapter 536 and, if applicable, section
8 536.028. This section and chapter 536 are nonseverable and if
9 any of the powers vested with the general assembly pursuant to
10 chapter 536 to review, to delay the effective date, or to
11 disapprove and annul a rule are subsequently held
12 unconstitutional, then the grant of rulemaking authority and any
13 rule proposed or adopted after August 28, 2004, shall be invalid
14 and void.

15 210.1080. 1. As used in this section, the following terms
16 mean:

17 (1) "Child care staff member", a child care provider;
18 persons employed by the child care provider for compensation,
19 including contract employees or self-employed individuals;
20 individuals or volunteers whose activities involve the care or
21 supervision of children for a child care provider or unsupervised
22 access to children who are cared for or supervised by a child
23 care provider; or individuals residing in a family child care
24 home who are seventeen years of age and older;

25 (2) "Criminal background check":

26 (a) A Federal Bureau of Investigation fingerprint check;

27 (b) A search of the National Crime Information Center's
28 National Sex Offender Registry; and

1 (c) A search of the following registries, repositories, or
2 databases in Missouri, the state where the child care staff
3 member resides, and each state where such staff member resided
4 during the preceding five years:

5 a. The state criminal registry or repository, with the use
6 of fingerprints being required in the state where the staff
7 member resides and optional in other states;

8 b. The state sex offender registry or repository; and

9 c. The state-based child abuse and neglect registry and
10 database.

11 2. (1) Prior to the employment or presence of a child care
12 staff member in a family child care home, group child care home,
13 child care center, or license-exempt child care facility, the
14 child care provider shall request the results of a criminal
15 background check for such child care staff member from the
16 department of health and senior services.

17 (2) A prospective child care staff member may begin work
18 for a child care provider after the criminal background check has
19 been requested from the department; however, pending completion
20 of the criminal background check, the prospective child care
21 staff member shall be supervised at all times by another child
22 care staff member who received a qualifying result on the
23 criminal background check within the past five years.

24 (3) A family child care home, group child care home, child
25 care center, or license-exempt child care facility that has child
26 care staff members at the time this section becomes effective
27 shall request the results of a criminal background check for all
28 child care staff members by January 31, 2019, unless the

1 requirements of subsection 5 of this section are met by the child
2 care provider and proof is submitted to the department of health
3 and senior services by January 31, 2019.

4 3. The costs of the criminal background check shall be the
5 responsibility of the child care staff member but may be paid or
6 reimbursed by the child care provider at the provider's
7 discretion. The fees charged for the criminal background check
8 shall not exceed the actual cost of processing and
9 administration.

10 4. Except as otherwise provided in subsection 2 of this
11 section, upon completion of the criminal background check, any
12 child care staff member or prospective child care staff member
13 shall be ineligible for employment or presence at a family child
14 care home, a group child care home, a licensed child care center,
15 or a license-exempt child care facility if such person:

16 (1) Refuses to consent to the criminal background check as
17 required by this section;

18 (2) Knowingly makes a materially false statement in
19 connection with the criminal background check as required by this
20 section;

21 (3) Is registered, or is required to be registered, on a
22 state sex offender registry or repository or the National Sex
23 Offender Registry;

24 (4) Has a finding of child abuse or neglect under section
25 210.145 or 210.152 or any other finding of child abuse or neglect
26 based on any other state's registry or database;

27 (5) Has been convicted of a felony consisting of:

28 (a) Murder, as described in 18 U.S.C. Section 1111;

1 (b) Child abuse or neglect;

2 (c) A crime against children, including child pornography;

3 (d) Spousal abuse;

4 (e) A crime involving rape or sexual assault;

5 (f) Kidnapping;

6 (g) Arson;

7 (h) Physical assault or battery; or

8 (i) Subject to subsection 5 of this section, a drug-related
9 offense committed during the preceding five years;

10 (6) Has been convicted of a violent misdemeanor committed
11 as an adult against a child, including the following crimes:
12 child abuse, child endangerment, or sexual assault, or of a
13 misdemeanor involving child pornography; or

14 (7) Has been convicted of any similar crime in any federal,
15 state, municipal, or other court.

16
17 Adult household members seventeen years of age and older in a
18 family child care home shall be ineligible to maintain a presence
19 at a family child care home if any one or more of the provisions
20 of this subsection applies to them.

21 5. A child care provider shall not be required to submit a
22 request for a criminal background check under this section for a
23 child care staff member if:

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

28 (2) The department of health and senior services provided

1 to the first provider a qualifying criminal background check
2 result, consistent with this section, for the staff member; and

3 (3) The staff member is employed by a child care provider
4 within Missouri or has been separated from employment from a
5 child care provider within Missouri for a period of not more than
6 one hundred eighty consecutive days.

7 6. (1) The department of health and senior services shall
8 process the request for a criminal background check for any
9 prospective child care staff member or child care staff member as
10 expeditiously as possible, but not to exceed forty-five days
11 after the date on which the provider submitted the request.

12 (2) The department shall provide the results of the
13 criminal background check to the child care provider in a
14 statement that indicates whether the prospective child care staff
15 member or child care staff member is eligible or ineligible for
16 employment or presence at the child care facility. The
17 department shall not reveal to the child care provider any
18 disqualifying crime or other related information regarding the
19 prospective child care staff member or child care staff member.

20 (3) If such prospective child care staff member or child
21 care staff member is ineligible for employment or presence at the
22 child care facility, the department shall, when providing the
23 results of criminal background check, include information related
24 to each disqualifying crime or other related information, in a
25 report to such prospective child care staff member or child care
26 staff member, along with information regarding the opportunity to
27 appeal under subsection 7 of this section.

28 7. The prospective child care staff member or child care

1 staff member may appeal in writing to the department to challenge
2 the accuracy or completeness of the information contained in his
3 or her criminal background check, or to offer information
4 mitigating the results and explaining why an eligibility
5 exception should be granted. The department of health and senior
6 services shall attempt to verify the accuracy of the information
7 challenged by the individual, including making an effort to
8 locate any missing disposition information related to the
9 disqualifying crime. The appeal shall be filed within ten days
10 from the delivery or mailing of the notice of ineligibility. The
11 department shall make a decision on the appeal in a timely
12 manner.

13 8. The department may adopt emergency rules to implement
14 the requirements of this section. Any rule or portion of a rule,
15 as that term is defined in section 536.010, that is created under
16 the authority delegated in this section shall become effective
17 only if it complies with and is subject to all of the provisions
18 of chapter 536 and, if applicable, section 536.028. This section
19 and chapter 536 are nonseverable, and if any of the powers vested
20 with the general assembly pursuant to chapter 536 to review, to
21 delay the effective date, or to disapprove and annul a rule are
22 subsequently held unconstitutional, then the grant of rulemaking
23 authority and any rule proposed or adopted after August 28, 2018,
24 shall be invalid and void.

25 9. (1) The provisions of this section shall not apply to
26 any child care facility, as defined in section 210.201,
27 maintained or operated under the exclusive control of a religious
28 organization, as described in subdivision (5) of subsection 1 of

1 section 210.211, unless such facility is a recipient of federal
2 funds for providing care for children, except for federal funds
3 for those programs that meet the requirements for participation
4 in the Child and Adult Care Food Program under 42 U.S.C. Section
5 1766.

6 (2) The provisions of this section, and any rules or
7 regulations promulgated under this section, shall expire if 42
8 U.S.C. Section 9858f, as enacted by the Child Care and
9 Development Block Grant (CCDBG) Act of 2014, and 45 CFR 98.43 are
10 repealed or if Missouri no longer receives federal funds from the
11 CCDBG.

12 302.060. 1. The director shall not issue any license and
13 shall immediately deny any driving privilege:

14 (1) To any person who is under the age of eighteen years,
15 if such person operates a motor vehicle in the transportation of
16 persons or property as classified in section 302.015;

17 (2) To any person who is under the age of sixteen years,
18 except as hereinafter provided;

19 (3) To any person whose license has been suspended, during
20 such suspension, or to any person whose license has been revoked,
21 until the expiration of one year after such license was revoked;

22 (4) To any person who is an habitual drunkard or is
23 addicted to the use of narcotic drugs;

24 (5) To any person who has previously been adjudged to be
25 incapacitated and who at the time of application has not been
26 restored to partial capacity;

27 (6) To any person who, when required by this law to take an
28 examination, has failed to pass such examination;

1 (7) To any person who has an unsatisfied judgment against
2 such person, as defined in chapter 303, until such judgment has
3 been satisfied or the financial responsibility of such person, as
4 described in section 303.120, has been established;

5 (8) To any person whose application shows that the person
6 has been convicted within one year prior to such application of
7 violating the laws of this state relating to failure to stop
8 after an accident and to disclose the person's identity or
9 driving a motor vehicle without the owner's consent;

10 (9) To any person who has been convicted more than twice of
11 violating state law, or a county or municipal ordinance where the
12 defendant was represented by or waived the right to an attorney
13 in writing, relating to driving while intoxicated; except that,
14 after the expiration of ten years from the date of conviction of
15 the last offense of violating such law or ordinance relating to
16 driving while intoxicated, a person who was so convicted may
17 petition the circuit court of the county in which such last
18 conviction was rendered and the court shall review the person's
19 habits and conduct since such conviction, including the results
20 of a criminal history check as defined in section 302.010. If
21 the court finds that the petitioner has not been found guilty of,
22 and has no pending charges for any offense related to alcohol,
23 controlled substances or drugs and has no other alcohol-related
24 enforcement contacts as defined in section 302.525 during the
25 preceding ten years and that the petitioner's habits and conduct
26 show such petitioner to no longer pose a threat to the public
27 safety of this state, the court shall order the director to issue
28 a license to the petitioner if the petitioner is otherwise

1 qualified pursuant to the provisions of sections 302.010 to
2 302.540. No person may obtain a license pursuant to the
3 provisions of this subdivision through court action more than one
4 time;

5 (10) To any person who has been found guilty of acting with
6 criminal negligence while driving while intoxicated to cause the
7 death of another person, or to any person who has been convicted
8 twice within a five-year period of violating state law, county or
9 municipal ordinance of driving while intoxicated, or any other
10 intoxication-related traffic offense as defined in section
11 577.001, except that, after the expiration of five years from the
12 date of conviction of the last offense of violating such law or
13 ordinance, a person who was so convicted may petition the circuit
14 court of the county in which such last conviction was rendered
15 and the court shall review the person's habits and conduct since
16 such conviction, including the results of a criminal history
17 check as defined in section 302.010. If the court finds that the
18 petitioner has not been found guilty of, and has no pending
19 charges for any offense related to alcohol, controlled
20 substances, or drugs and has no other alcohol-related enforcement
21 contacts as defined in section 302.525 during the preceding five
22 years, and that the petitioner's habits and conduct show such
23 petitioner to no longer pose a threat to the public safety of
24 this state, the court shall order the director to issue a license
25 to the petitioner if the petitioner is otherwise qualified
26 pursuant to the provisions of sections 302.010 to 302.540;

27 (11) To any person who is otherwise disqualified pursuant
28 to the provisions of this chapter, chapter 303, or section

1 544.046;

2 (12) To any person who is under the age of eighteen years,
3 if such person's parents or legal guardians file a certified
4 document with the department of revenue stating that the director
5 shall not issue such person a driver's license. Each document
6 filed by the person's parents or legal guardians shall be made
7 upon a form furnished by the director and shall include
8 identifying information of the person for whom the parents or
9 legal guardians are denying the driver's license. The document
10 shall also contain identifying information of the person's
11 parents or legal guardians. The document shall be certified by
12 the parents or legal guardians to be true and correct. This
13 provision shall not apply to any person who is legally
14 emancipated. The parents or legal guardians may later file an
15 additional document with the department of revenue which
16 reinstates the person's ability to receive a driver's license.

17 2. Any person whose license is reinstated under the
18 provisions of subdivision (9) or (10) of subsection 1 of this
19 section shall be required to file proof with the director of
20 revenue that any motor vehicle operated by the person is equipped
21 with a functioning, certified ignition interlock device as a
22 required condition of reinstatement. The ignition interlock
23 device required for reinstatement under this subsection and for
24 obtaining a limited driving privilege under paragraph (a) or (b)
25 of subdivision (8) of subsection 3 of section 302.309 shall have
26 a photo identification technology feature, and a court may
27 require a global positioning system feature for such device. The
28 ignition interlock device shall further be required to be

1 maintained on all motor vehicles operated by the person for a
2 period of not less than six months immediately following the date
3 of reinstatement. If the monthly monitoring reports show that
4 the ignition interlock device has registered any confirmed blood
5 alcohol concentration readings above the alcohol setpoint
6 established by the department of transportation or that the
7 person has tampered with or circumvented the ignition interlock
8 device within the last three months of the six-month period of
9 required installation of the ignition interlock device, then the
10 period for which the person must maintain the ignition interlock
11 device following the date of reinstatement shall be extended
12 until the person has completed three consecutive months with no
13 violations as described in this section. If the person fails to
14 maintain such proof with the director, the license shall be
15 suspended until proof as required by this section is filed with
16 the director.

17 3. Any person who petitions the court for reinstatement of
18 his or her license pursuant to subdivision (9) or (10) of
19 subsection 1 of this section shall make application with the
20 Missouri state highway patrol as provided in section 43.540, and
21 shall submit ~~two sets of~~ fingerprints collected pursuant to
22 standards as determined by the highway patrol. ~~One set of~~
23 Fingerprints shall be used by the highway patrol to search the
24 criminal history repository and ~~the second set shall be~~
25 ~~forwarded to~~ the Federal Bureau of Investigation for searching
26 the federal criminal history files. At the time of application,
27 the applicant shall supply to the highway patrol the court name
28 and case number for the court where he or she has filed his or

1 her petition for reinstatement. The applicant shall pay the fee
2 for the state criminal history check pursuant to section 43.530
3 and pay the appropriate fee determined by the Federal Bureau of
4 Investigation for the federal criminal history record. The
5 Missouri highway patrol, upon receipt of the results of the
6 criminal history check, shall forward a copy of the results to
7 the circuit court designated by the applicant and to the
8 department. Notwithstanding the provisions of section 610.120,
9 all records related to any criminal history check shall be
10 accessible and available to the director and the court.

11 313.810. 1. A person shall not be issued a license to
12 conduct gambling games on an excursion gambling boat or a license
13 to operate an excursion gambling boat, an occupational license,
14 or a supplier license unless the person has completed and signed
15 an application on the form prescribed and published by the
16 commission. The application shall include the full name,
17 residence, date of birth and other personal identifying
18 information as the commission deems necessary, including but not
19 limited to, the information specified in section 313.847. The
20 application shall also indicate whether the applicant has any of
21 the following:

22 (1) A record of conviction of a felony; or

23 (2) A current addiction to a controlled substance.

24 2. The commission shall submit ~~two sets of~~ fingerprints
25 for any person seeking employment with the commission or any
26 person who is seeking the issuance or renewal of a license issued
27 by the commission, for the purpose of checking the person's prior
28 criminal history when the commission determines a nationwide

1 check is warranted. The fingerprint cards and any required fees
2 shall be sent to the Missouri state highway patrol's central
3 repository. The ~~【first set of】~~ fingerprints shall be used for
4 searching the state ~~【repository of】~~ criminal history
5 ~~【information. The second set of fingerprints】~~ repository and
6 shall also be forwarded to the Federal Bureau of Investigation~~【7~~
7 ~~Identification Division,】~~ for the searching of the federal
8 criminal history files under section 43.540. The patrol shall
9 notify the commission of any criminal history information or lack
10 of criminal history information discovered on the individual.
11 Notwithstanding the provisions of section 610.120, all records
12 related to any criminal history information discovered shall be
13 accessible and available to the commission.

14 3. It is the burden of the applicant to show by clear and
15 convincing evidence his suitability as to character, experience
16 and other factors as may be deemed appropriate by the commission.

17 4. Before a license is granted, the commission shall
18 conduct a thorough investigation of the applicant for a license
19 to operate a gambling game operation on an excursion gambling
20 boat. The applicant shall provide information on a form as
21 required by the commission.

22 5. A person who knowingly makes a false statement on an
23 application is guilty of a class A misdemeanor and shall not ever
24 again be considered for application by the commission.

25 6. The licensee shall permit the commission or commission
26 employees designated to inspect the licensee or holder's person,
27 personal property, excursion gambling boat and effects at any
28 time.

1 610.120. 1. Except as otherwise provided under section
2 610.124, records required to be closed shall not be destroyed;
3 they shall be inaccessible to the general public and to all
4 persons other than the defendant except as provided in this
5 section and ~~[section 43.507]~~ chapter 43. ~~[The]~~ Closed records
6 shall be available to: criminal justice agencies for the
7 administration of criminal justice pursuant to section 43.500,
8 criminal justice employment, screening persons with access to
9 criminal justice facilities, procedures, and sensitive
10 information; to law enforcement agencies for issuance or renewal
11 of a license, permit, certification, or registration of authority
12 from such agency including but not limited to watchmen, security
13 personnel, private investigators, and persons seeking permits to
14 purchase or possess a firearm; those agencies authorized by
15 ~~[section 43.543 to submit and]~~ chapter 43 and applicable state
16 law when submitting fingerprints to the central repository; the
17 sentencing advisory commission created in section 558.019 for the
18 purpose of studying sentencing practices in accordance with
19 ~~[section 43.507]~~ chapter 43; to qualified entities for the
20 purpose of screening providers defined in ~~[section 43.540]~~
21 chapter 43; the department of revenue for driver license
22 administration; the department of public safety for the purposes
23 of determining eligibility for crime victims' compensation
24 pursuant to sections 595.010 to 595.075, department of health and
25 senior services for the purpose of licensing and regulating
26 facilities and regulating in-home services provider agencies and
27 federal agencies for purposes of criminal justice administration,
28 criminal justice employment, child, elderly, or disabled care,

1 and for such investigative purposes as authorized by law or
2 presidential executive order.

3 2. These records shall be made available only for the
4 purposes and to the entities listed in this section. A criminal
5 justice agency receiving a request for criminal history
6 information under its control may require positive
7 identification, to include fingerprints of the subject of the
8 record search, prior to releasing closed record information.
9 Dissemination of closed and open records from the Missouri
10 criminal records repository shall be in accordance with section
11 43.509. All records which are closed records shall be removed
12 from the records of the courts, administrative agencies, and law
13 enforcement agencies which are available to the public and shall
14 be kept in separate records which are to be held confidential
15 and, where possible, pages of the public record shall be retyped
16 or rewritten omitting those portions of the record which deal
17 with the defendant's case. If retyping or rewriting is not
18 feasible because of the permanent nature of the record books,
19 such record entries shall be blacked out and recopied in a
20 confidential book.

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27 _____
28 Representative Cody Smith

Senator Caleb Rowden