

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 40

102ND GENERAL ASSEMBLY

0624S.02C

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 210.493, RSMo, and to enact in lieu thereof three new sections relating to background checks.

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

Section A. Section 210.493, RSMo, is repealed and three
2 new sections enacted in lieu thereof, to be known as sections
3 171.097, 195.817, and 210.493, to read as follows:

171.097. 1. **School districts shall ensure that a**
2 **state criminal history background check consisting of open**
3 **records is conducted on any person who is eighteen years of**
4 **age or older, who is not counted by the district for**
5 **purposes of average daily attendance under section 163.011,**
6 **and who requests enrollment in a course that takes place on**
7 **school district property during regular school hours and**
8 **includes students counted by the district for purposes of**
9 **average daily attendance under section 163.011.**

10 2. **The state criminal history background check**
11 **required under this section shall be processed through the**
12 **Missouri state highway patrol prior to enrollment. The**
13 **person requesting enrollment in a course as described in**
14 **this section shall pay the fee for the state criminal**
15 **history background check pursuant to section 43.530.**

16 3. **If, as a result of the criminal history background**
17 **check required under this section, it is determined that a**

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

18 person who requested enrollment has been convicted of a
19 crime or offense listed in subsection 6 of section 168.071,
20 or a similar crime or offense committed in another state,
21 the United States, or any other country, regardless of
22 imposition of sentence, the school district shall prohibit
23 such person from enrolling in any course for which a state
24 criminal history background check is required under this
25 section.

195.817. 1. The department of health and senior
2 services shall require all employees, contractors, owners,
3 and volunteers of marijuana facilities to submit
4 fingerprints to the Missouri state highway patrol for the
5 purpose of conducting a state and federal fingerprint-based
6 criminal background check.

7 2. The department may require that such fingerprint
8 submissions be made as part of a marijuana facility
9 application, a marijuana facility renewal application, and
10 an individual's application for a license or permit
11 authorizing that individual to be an employee, contractor,
12 owner, or volunteer of a marijuana facility.

13 3. Fingerprint cards and any required fees shall be
14 sent to the Missouri state highway patrol's central
15 repository. The fingerprints shall be used for searching
16 the state criminal records repository and shall also be
17 forwarded to the Federal Bureau of Investigation for a
18 federal criminal records search under section 43.540. The
19 Missouri state highway patrol shall notify the department of
20 any criminal history record information or lack of criminal
21 history record information discovered on the individual.
22 Notwithstanding the provisions of section 610.120 to the
23 contrary, all records related to any criminal history

24 information discovered shall be accessible and available to
25 the department.

26 4. As used in this section, the following terms shall
27 mean:

28 (1) "Contractor", a person performing work or service
29 of any kind for a marijuana facility in accordance with a
30 contract with that facility;

31 (2) "Marijuana facility", an entity licensed or
32 certified by the department of health and senior services to
33 cultivate, manufacture, test, transport, dispense, or
34 conduct research on marijuana or marijuana products;

35 (3) "Owner", an individual who has a financial
36 interest or voting interest in ten percent or greater of a
37 marijuana facility.

210.493. 1. [Officers, managers,] As used in this
2 section, the following terms mean:

3 (1) "Applicant", any individual who applies or is
4 required to successfully complete the background check
5 requirements for employment or presence at a licensed
6 residential care facility, license-exempt residential care
7 facility, or child placing agency. For the purposes of
8 background checks conducted by the Missouri state highway
9 patrol, the term "applicant" is further defined in section
10 43.540;

11 (2) "Contractor", a person who contracts to do work
12 for or supply goods to a licensed residential care facility,
13 license-exempt residential care facility, or child placing
14 agency;

15 (3) "Employee", an individual who works in the service
16 of a licensed residential care facility, license-exempt
17 residential care facility, or child placing agency under an
18 express or implied contract for hire, whether written or

19 unwritten or full time or part time, under which the
20 licensed residential care facility, license-exempt
21 residential care facility, or child placing agency has the
22 right to control, in whole or in part, the details of the
23 individual's work performance;

24 (4) "Owner", an individual who holds an equity
25 interest in a licensed residential care facility, license-
26 exempt residential care facility, or child placing agency;

27 (5) "Volunteer", an individual who performs a service
28 for or on behalf of a licensed residential care facility,
29 license-exempt residential care facility, or child placing
30 agency of the individual's own free will without obligation
31 or without any expectation of a reward or compensation.

32 2. Contractors, volunteers with access to children,
33 and employees[, and other support staff] of licensed
34 residential care facilities and licensed child placing
35 agencies in accordance with sections 210.481 to 210.536;
36 owners of such residential care facilities who will have
37 access to the facilities; and owners of such child placing
38 agencies who will have access to children shall submit
39 fingerprints and any information that the department
40 requires to complete the background checks, as specified in
41 regulations established by the department, to the Missouri
42 state highway patrol for the purpose of conducting state and
43 federal fingerprint-based background checks.

44 [2. Officers, managers,]

45 3. Contractors, volunteers with access to children,
46 and employees[, and other support staff] of residential care
47 facilities subject to the notification requirements under
48 sections 210.1250 to 210.1286; any person eighteen years of
49 age or older who resides at or on the property of such
50 residential care facility; any person who has unsupervised

51 contact with a resident of the residential care facility;
52 and owners of such residential care facilities who will have
53 access to the facilities shall submit fingerprints and any
54 information that the department requires to complete the
55 background checks, as specified in regulations established
56 by the department, to the Missouri state highway patrol for
57 the purpose of conducting state and federal fingerprint-
58 based background checks.

59 [3.] 4. A background check shall include:

60 (1) A **state and** Federal Bureau of Investigation
61 fingerprint check; **and**

62 (2) [A search of the National Crime Information
63 Center's National Sex Offender Registry; and

64 (3)] A search of the following registries,
65 repositories, or databases in Missouri, the state where the
66 applicant resides, and each state where such applicant
67 resided during the preceding five years:

68 (a) The state criminal registry or repository, with
69 the use of fingerprints being required in the state where
70 the applicant resides and optional in other states;

71 (b) The state sex offender registry or repository;

72 (c) The state family care safety registry; and

73 (d) The state-based child abuse and neglect registry
74 and database.

75 [4.] 5. For the purposes this section and
76 notwithstanding any other provision of law, "department"
77 means the department of social services.

78 [5.] 6. The department shall be responsible for
79 background checks as part of a residential care facility or
80 child placing agency application for licensure, renewal of
81 licensure, or for license monitoring.

82 [6.] 7. The department shall be responsible for
83 background checks for residential care facilities subject to
84 the notification requirements of sections 210.1250 to
85 210.1286.

86 [7.] 8. Fingerprint cards and any required fees shall
87 be sent to the Missouri state highway patrol's central
88 repository. The fingerprints shall be used for searching
89 the state criminal records repository and shall also be
90 forwarded to the Federal Bureau of Investigation for a
91 federal criminal records search under section 43.540. The
92 Missouri state highway patrol shall notify the department of
93 any criminal history record information or lack of criminal
94 history record information discovered on the individual.
95 Notwithstanding the provisions of section 610.120, all
96 records related to any criminal history information
97 discovered shall be accessible and available to the
98 department.

99 [8.] 9. Fingerprints submitted to the Missouri state
100 highway patrol for the purpose of conducting state and
101 federal fingerprint-based background checks under this
102 section shall be valid for a period of five years.

103 [9.] 10. The department shall provide the results of
104 the background check to the applicant in a statement that
105 indicates whether the applicant is eligible or ineligible
106 for employment or presence at the licensed residential care
107 facility or licensed child placing agency. The department
108 shall not reveal to the residential care facility or the
109 child placing agency any disqualifying offense or other
110 related information regarding the applicant. The applicant
111 shall have the opportunity to appeal an ineligible finding.

112 [10.] 11. The department shall provide the results of
113 the background check to the applicant in a statement that

114 indicates whether the applicant is eligible or ineligible
115 for employment or presence at the residential care facility
116 subject to the notification requirements of sections
117 210.1250 to 210.1286. The department shall not reveal to
118 the residential care facility any disqualifying offense or
119 other related information regarding the applicant. The
120 applicant shall have the opportunity to appeal an ineligible
121 finding.

122 [11.] 12. An applicant shall be ineligible if the
123 applicant:

124 (1) Refuses to consent to the background check as
125 required by this section;

126 (2) Knowingly makes a materially false statement in
127 connection with the background check as required by this
128 section;

129 (3) Is registered, or is required to be registered, on
130 a state sex offender registry or repository [or the National
131 Sex Offender Registry];

132 (4) Is listed as a perpetrator of child abuse or
133 neglect under sections 210.109 to 210.183 or any other
134 finding of child abuse or neglect based on any other state's
135 registry or database; or

136 (5) Has pled guilty or nolo contendere to or been
137 found guilty of:

138 (a) Any felony for an offense against the person as
139 defined in chapter 565;

140 (b) Any other offense against the person involving the
141 endangerment of a child as prescribed by law;

142 (c) Any misdemeanor or felony for a sexual offense as
143 defined in chapter 566;

144 (d) Any misdemeanor or felony for an offense against
145 the family as defined in chapter 568;

146 (e) Burglary in the first degree as defined in section
147 569.160;

148 (f) Any misdemeanor or felony for robbery as defined
149 in chapter 570;

150 (g) Any misdemeanor or felony for pornography or
151 related offense as defined in chapter 573;

152 (h) Any felony for arson as defined in chapter 569;

153 (i) Any felony for armed criminal action as defined in
154 section 571.015, unlawful use of a weapon as defined in
155 section 571.030, unlawful possession of a firearm as defined
156 in section 571.070, or the unlawful possession of an
157 explosive as defined in section 571.072;

158 (j) Any felony for making a terrorist threat as
159 defined in section 574.115, 574.120, or 574.125;

160 (k) A felony drug-related offense committed during the
161 preceding five years; or

162 (l) Any similar offense in any federal, state, or
163 other court of similar jurisdiction of which the department
164 has knowledge.

165 [12.] 13. Any person aggrieved by a decision of the
166 department shall have the right to seek an administrative
167 review. The review shall be filed with the department
168 within fourteen days from the mailing of the notice of
169 ineligibility. Any decision not timely appealed shall be
170 final.

171 [13.] 14. Any required fees shall be paid by the
172 individual applicant, facility, or agency.

173 [14.] 15. The department is authorized to promulgate
174 rules, including emergency rules, to implement the
175 provisions of this section. Any rule or portion of a rule,
176 as that term is defined in section 536.010, that is created
177 under the authority delegated in this section shall become

178 effective only if it complies with and is subject to all of
179 the provisions of chapter 536 and, if applicable, section
180 536.028. This section and chapter 536 are nonseverable and
181 if any of the powers vested with the general assembly
182 pursuant to chapter 536 to review, to delay the effective
183 date, or to disapprove and annul a rule are subsequently
184 held unconstitutional, then the grant of rulemaking
185 authority and any rule proposed or adopted after July 14,
186 2021, shall be invalid and void.

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