

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 40**

102ND GENERAL ASSEMBLY  
2023

0624H.06T

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**AN ACT**

To repeal sections 43.539, 43.540, and 210.493, RSMo, and to enact in lieu thereof five new sections relating to background checks.

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

Section A. Sections 43.539, 43.540, and 210.493, RSMo,  
2 are repealed and five new sections enacted in lieu thereof, to  
3 be known as sections 43.539, 43.540, 171.097, 195.817, and  
4 210.493, to read as follows:

43.539. 1. As used in this section, the following  
2 terms mean:

3 (1) "Applicant", a person who:

4 (a) Is actively employed by or seeks employment with a  
5 qualified entity;

6 (b) Is actively licensed or seeks licensure with a  
7 qualified entity;

8 (c) Actively volunteers or seeks to volunteer with a  
9 qualified entity;

10 (d) Is actively contracted with or seeks to contract  
11 with a qualified entity; or

12 (e) Owns or operates a qualified entity;

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

13           (2) "Care", the provision of care, treatment,  
14 education, training, instruction, supervision, or recreation  
15 to children, the elderly, or disabled persons;

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

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

27           (5) "National criminal record review", a review of the  
28 criminal history records maintained by the Federal Bureau of  
29 Investigation;

30           (6) "National Rap Back program", any type of automatic  
31 notification made by the Federal Bureau of Investigation  
32 through the Missouri state highway patrol to a qualified  
33 entity indicating that an applicant who is employed,  
34 licensed, or otherwise under the purview of that entity has  
35 been arrested for a reported criminal offense outside the  
36 state of Missouri and the fingerprints for that arrest were  
37 forwarded to the Federal Bureau of Investigation by the  
38 arresting agency;

39           (7) "Patient or resident", a person who by reason of  
40 age, illness, disease, or physical or mental infirmity  
41 receives or requires care or services furnished by an  
42 applicant, as defined in this section, or who resides or  
43 boards in, or is otherwise kept, cared for, treated, or

44 accommodated in a facility as defined in section 198.006,  
45 for a period exceeding twenty-four consecutive hours;

46 (8) "Qualified entity", a person, business, or  
47 organization that provides care, care placement, or  
48 educational services for children, the elderly, or persons  
49 with disabilities as patients or residents, including a  
50 business or organization that licenses or certifies others  
51 to provide care or care placement services;

52 (9) "Youth services agency", any agency, school, or  
53 association that provides programs, care, or treatment for  
54 or exercises supervision over minors.

55 2. The central repository shall have the authority to  
56 submit applicant fingerprints to the National Rap Back  
57 program to be retained for the purpose of being searched  
58 against future submissions to the National Rap Back program,  
59 including latent fingerprint searches. Qualified entities  
60 may conduct Missouri and national criminal record reviews on  
61 applicants and participate in Missouri and National Rap Back  
62 programs for the purpose of determining suitability or  
63 fitness for a permit, license, or employment, and shall  
64 abide by the following requirements:

65 (1) The qualified entity shall register with the  
66 Missouri state highway patrol prior to submitting a request  
67 for screening under this section. As part of the  
68 registration, the qualified entity shall indicate if it  
69 chooses to enroll applicants in the Missouri and National  
70 Rap Back programs;

71 (2) Qualified entities shall notify applicants subject  
72 to a criminal record review under this section that the  
73 applicant's fingerprints shall be retained by the state  
74 central repository and the Federal Bureau of Investigation

75 and shall be searched against other fingerprints on file,  
76 including latent fingerprints;

77 (3) Qualified entities shall notify applicants subject  
78 to enrollment in the National Rap Back program that the  
79 applicant's fingerprints, while retained, may continue to be  
80 compared against other fingerprints submitted or retained by  
81 the Federal Bureau of Investigation, including latent  
82 fingerprints;

83 (4) The criminal record review and Rap Back process  
84 described in this section shall be voluntary and conform to  
85 the requirements established in the National Child  
86 Protection Act of 1993, as amended, and other applicable  
87 state or federal law. As a part of the registration, the  
88 qualified entity shall agree to comply with state and  
89 federal law and shall indicate so by signing an agreement  
90 approved by the Missouri state highway patrol. The Missouri  
91 state highway patrol may periodically audit qualified  
92 entities to ensure compliance with federal law and this  
93 section;

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

98 (6) Each request shall be accompanied by a reasonable  
99 fee, as provided in section 43.530, plus the amount  
100 required, if any, by the Federal Bureau of Investigation for  
101 the national criminal record review and enrollment in the  
102 National Rap Back program in compliance with the National  
103 Child Protection Act of 1993, as amended, and other  
104 applicable state or federal laws;

105 (7) The Missouri state highway patrol shall provide,  
106 directly to the qualified entity, the applicant's state

107 criminal history records that are not exempt from disclosure  
108 under chapter 610 or otherwise confidential under law;

109 (8) The national criminal history data shall be  
110 available to qualified entities to use only for the purpose  
111 of screening applicants as described under this section.  
112 The Missouri state highway patrol shall provide the  
113 applicant's national criminal history record information  
114 directly to the qualified entity;

115 (9) The determination whether the criminal history  
116 record shows that the applicant has been convicted of or has  
117 a pending charge for any crime that bears upon the fitness  
118 of the applicant to have responsibility for the safety and  
119 well-being of children, the elderly, or disabled persons  
120 shall be made solely by the qualified entity. This section  
121 shall not require the Missouri state highway patrol to make  
122 such a determination on behalf of any qualified entity;

123 (10) The qualified entity shall notify the applicant,  
124 in writing, of his or her right to obtain a copy of any  
125 criminal record review, including the criminal history  
126 records, if any, contained in the report and of the  
127 applicant's right to challenge the accuracy and completeness  
128 of any information contained in any such report and obtain a  
129 determination as to the validity of such challenge before a  
130 final determination regarding the applicant is made by the  
131 qualified entity reviewing the criminal history  
132 information. A qualified entity that is required by law to  
133 apply screening criteria, including any right to contest or  
134 request an exemption from disqualification, shall apply such  
135 screening criteria to the state and national criminal  
136 history record information received from the Missouri state  
137 highway patrol for those applicants subject to the required  
138 screening; and

139           (11) Failure to obtain the information authorized  
140 under this section, with respect to an applicant, shall not  
141 be used as evidence in any negligence action against a  
142 qualified entity. The state, any political subdivision of  
143 the state, or any agency, officer, or employee of the state  
144 or a political subdivision shall not be liable for damages  
145 for providing the information requested under this section.

146           3. The criminal record review shall include the  
147 submission of fingerprints to the Missouri state highway  
148 patrol, who shall conduct a Missouri criminal record review,  
149 including closed record information under section 610.120.  
150 The Missouri state highway patrol shall also forward a copy  
151 of the applicant's fingerprints to the Federal Bureau of  
152 Investigation for a national criminal record review.

153           4. The applicant subject to a criminal record review  
154 shall provide the following information to the qualified  
155 entity:

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

159           (2) Consent to obtain the identifying information  
160 required to conduct the criminal record review, which may  
161 include, but not be limited to:

- 162           (a) Name;
- 163           (b) Date of birth;
- 164           (c) Height;
- 165           (d) Weight;
- 166           (e) Eye color;
- 167           (f) Hair color;
- 168           (g) Gender;
- 169           (h) Race;
- 170           (i) Place of birth;

171 (j) Social Security number; and

172 (k) The applicant's photo.

173 5. Any information received by an authorized state  
174 agency or a qualified entity under the provisions of this  
175 section shall be used solely for internal purposes in  
176 determining the suitability of an applicant. The  
177 dissemination of criminal history information from the  
178 Federal Bureau of Investigation beyond the authorized state  
179 agency or related governmental entity is prohibited. All  
180 criminal record check information shall be confidential, and  
181 any person who discloses the information beyond the scope  
182 allowed is guilty of a class A misdemeanor.

183 6. A qualified entity enrolled in either the Missouri  
184 or National Rap Back program shall be notified by the  
185 Missouri state highway patrol that a new arrest has been  
186 reported on an applicant who is employed, licensed, or  
187 otherwise under the purview of the qualified entity. Upon  
188 receiving the Rap Back notification, if the qualified entity  
189 deems that the applicant is still serving in an active  
190 capacity, the entity may request and receive the  
191 individual's updated criminal history record. This process  
192 shall only occur if:

193 (1) The entity has abided by all procedures and rules  
194 promulgated by the Missouri state highway patrol and Federal  
195 Bureau of Investigation regarding the Missouri and National  
196 Rap Back programs;

197 (2) The individual upon whom the Rap Back notification  
198 is being made has previously had a Missouri and national  
199 criminal record review completed for the qualified entity  
200 under this section [within the previous six years]; and

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

204 7. The Missouri state highway patrol shall make  
205 available or approve the necessary forms, procedures, and  
206 agreements necessary to implement the provisions of this  
207 section.

43.540. 1. As used in this section, the following  
2 terms mean:

3 (1) "Applicant", a person who:

4 (a) Is actively employed by or seeks employment with a  
5 qualified entity;

6 (b) Is actively licensed or seeks licensure with a  
7 qualified entity;

8 (c) Actively volunteers or seeks to volunteer with a  
9 qualified entity; or

10 (d) Is actively contracted with or seeks to contract  
11 with a qualified entity;

12 (2) "Missouri criminal record review", a review of  
13 criminal history records and sex offender registration  
14 records pursuant to sections 589.400 to 589.425 maintained  
15 by the Missouri state highway patrol in the Missouri  
16 criminal records repository;

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



24           (4) "National criminal record review", a review of the  
25 criminal history records maintained by the Federal Bureau of  
26 Investigation;

27           (5) "National Rap Back program", shall include any  
28 type of automatic notification made by the Federal Bureau of  
29 Investigation through the Missouri state highway patrol to a  
30 qualified entity indicating that an applicant who is  
31 employed, licensed, or otherwise under the purview of that  
32 entity has been arrested for a reported criminal offense  
33 outside the state of Missouri and the fingerprints for that  
34 arrest were forwarded to the Federal Bureau of Investigation  
35 by the arresting agency;

36           (6) "Qualified entity", an entity that is:

37           (a) An office or division of state, county, or  
38 municipal government, including a political subdivision or a  
39 board or commission designated by statute or approved local  
40 ordinance, to issue or renew a license, permit,  
41 certification, or registration of authority;

42           (b) An office or division of state, county, or  
43 municipal government, including a political subdivision or a  
44 board or commission designated by statute or approved local  
45 ordinance, to make fitness determinations on applications  
46 for state, county, or municipal government employment; or

47           (c) Any entity that is authorized to obtain criminal  
48 history record information under 28 CFR 20.33.

49           2. The central repository shall have the authority to  
50 submit applicant fingerprints to the National Rap Back  
51 program to be retained for the purpose of being searched  
52 against future submissions to the National Rap Back program,  
53 including latent fingerprint searches. Qualified entities  
54 may conduct Missouri and national criminal record reviews on  
55 applicants and participate in Missouri and National Rap Back

56 programs for the purpose of determining suitability or  
57 fitness for a permit, license, or employment, and shall  
58 abide by the following requirements:

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

65 (2) Qualified entities shall notify applicants subject  
66 to a criminal record review under this section that the  
67 applicant's fingerprints shall be retained by the state  
68 central repository and the Federal Bureau of Investigation  
69 and shall be searched against other fingerprints on file,  
70 including latent fingerprints;

71 (3) Qualified entities shall notify applicants subject  
72 to enrollment in the National Rap Back program that the  
73 applicant's fingerprints, while retained, may continue to be  
74 compared against other fingerprints submitted or retained by  
75 the Federal Bureau of Investigation, including latent  
76 fingerprints;

77 (4) The criminal record review and Rap Back process  
78 described in this section shall be voluntary and conform to  
79 the requirements established in Pub. L. 92-544 and other  
80 applicable state or federal law. As a part of the  
81 registration, the qualified entity shall agree to comply  
82 with state and federal law and shall indicate so by signing  
83 an agreement approved by the Missouri state highway patrol.  
84 The Missouri state highway patrol may periodically audit  
85 qualified entities to ensure compliance with federal law and  
86 this section;

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

91           (6) Each request shall be accompanied by a reasonable  
92 fee, as provided in section 43.530, plus the amount  
93 required, if any, by the Federal Bureau of Investigation for  
94 the national criminal record review and enrollment in the  
95 National Rap Back program in compliance with applicable  
96 state or federal laws;

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

101           (8) The national criminal history data shall be  
102 available to qualified entities to use only for the purpose  
103 of screening applicants as described under this section.  
104 The Missouri state highway patrol shall provide the  
105 applicant's national criminal history record information  
106 directly to the qualified entity;

107           (9) This section shall not require the Missouri state  
108 highway patrol to make an eligibility determination on  
109 behalf of any qualified entity;

110           (10) The qualified entity shall notify the applicant,  
111 in writing, of his or her right to obtain a copy of any  
112 criminal record review, including the criminal history  
113 records, if any, contained in the report, and of the  
114 applicant's right to challenge the accuracy and completeness  
115 of any information contained in any such report and to  
116 obtain a determination as to the validity of such challenge  
117 before a final determination regarding the applicant is made  
118 by the qualified entity reviewing the criminal history

119 information. A qualified entity that is required by law to  
120 apply screening criteria, including any right to contest or  
121 request an exemption from disqualification, shall apply such  
122 screening criteria to the state and national criminal  
123 history record information received from the Missouri state  
124 highway patrol for those applicants subject to the required  
125 screening; and

126 (11) Failure to obtain the information authorized  
127 under this section with respect to an applicant shall not be  
128 used as evidence in any negligence action against a  
129 qualified entity. The state, any political subdivision of  
130 the state, or any agency, officer, or employee of the state  
131 or a political subdivision shall not be liable for damages  
132 for providing the information requested under this section.

133 3. The criminal record review shall include the  
134 submission of fingerprints to the Missouri state highway  
135 patrol, who shall conduct a Missouri criminal record review,  
136 including closed record information under section 610.120.  
137 The Missouri state highway patrol shall also forward a copy  
138 of the applicant's fingerprints to the Federal Bureau of  
139 Investigation for a national criminal record review.

140 4. The applicant subject to a criminal record review  
141 shall provide the following information to the qualified  
142 entity:

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

146 (2) Consent to obtain the identifying information  
147 required to conduct the criminal record review, which may  
148 include, but not be limited to:

149 (a) Name;

150 (b) Date of birth;

- 151 (c) Height;  
152 (d) Weight;  
153 (e) Eye color;  
154 (f) Hair color;  
155 (g) Gender;  
156 (h) Race;  
157 (i) Place of birth;  
158 (j) Social Security number; and  
159 (k) The applicant's photo.

160 5. Any information received by an authorized state  
161 agency or a qualified entity pursuant to the provisions of  
162 this section shall be used solely for internal purposes in  
163 determining the suitability of an applicant. The  
164 dissemination of criminal history information from the  
165 Federal Bureau of Investigation beyond the authorized state  
166 agency or related governmental entity is prohibited. All  
167 criminal record check information shall be confidential and  
168 any person who discloses the information beyond the scope  
169 allowed is guilty of a class A misdemeanor.

170 6. A qualified entity enrolled in either the Missouri  
171 or National Rap Back programs shall be notified by the  
172 Missouri state highway patrol that a new arrest has been  
173 reported on an applicant who is employed, licensed, or  
174 otherwise under the purview of the qualified entity. Upon  
175 receiving the Rap Back notification, if the qualified entity  
176 deems that the applicant is still serving in an active  
177 capacity, the entity may request and receive the  
178 individual's updated criminal history record. This process  
179 shall only occur if:

- 180 (1) The agency has abided by all procedures and rules  
181 promulgated by the Missouri state highway patrol and Federal

182 Bureau of Investigation regarding the Missouri and National  
183 Rap Back programs;

184 (2) The individual upon whom the Rap Back notification  
185 is being made has previously had a Missouri and national  
186 criminal record review completed for the qualified entity  
187 under this section [within the previous six years]; and

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

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

**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  
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 for more than fourteen  
30 days in a calendar year in accordance with a contract with  
31 that facility;

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

36           (3) "Owner", an individual who has a financial  
37 interest or voting interest in ten percent or greater of a  
38 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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