

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
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:

1 Section A. Sections 43.500, 43.503, 43.504, 43.506, 43.509,
2 43.527, 43.530, 43.535, 43.540, 43.543, 43.546, 43.547, 192.2495,
3 208.909, 210.025, 210.254, 210.258, 210.482, 210.487, 302.060,
4 313.810, and 610.120, RSMo, are repealed and twenty-three new
5 sections enacted in lieu thereof, to be known as sections 43.500,
6 43.503, 43.504, 43.506, 43.509, 43.527, 43.530, 43.535, 43.540,
7 43.543, 43.546, 43.547, 192.2495, 208.909, 210.025, 210.254,
8 210.258, 210.482, 210.487, 210.1080, 302.060, 313.810, and
9 610.120, to read as follows:

10 43.500. As used in sections 43.500 to [43.543] 43.651, the
11 following terms mean:

12 (1) "Administration of criminal justice", performance of
13 any of the following activities: detection, apprehension,
14 detention, pretrial release, post-trial release, prosecution,

1 adjudication, correctional supervision, or rehabilitation of
2 accused persons or criminal offenders. The administration of
3 criminal justice shall include the screening of employees or
4 applicants seeking employment with criminal justice agencies,
5 criminal identification activities, and the collection, storage,
6 and dissemination of criminal history information, including
7 fingerprint searches, photographs, and other unique biometric
8 identification;

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

14 (3) "Committee", criminal records and justice information
15 advisory committee;

16 (4) "Comparable ordinance violation", a violation of an
17 ordinance having all the essential elements of a statutory felony
18 or a class A misdemeanor;

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

25 (6) "Final disposition", the formal conclusion of a
26 criminal proceeding at whatever stage it occurs in the criminal
27 justice system;

28 (7) "Missouri charge code", a unique number assigned by the

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

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

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

25 43.503. 1. For the purpose of maintaining complete and
26 accurate criminal history record information, all police officers
27 of this state, the clerk of each court, the department of
28 corrections, the sheriff of each county, the chief law

1 enforcement official of a city not within a county and the
2 prosecuting attorney of each county or the circuit attorney of a
3 city not within a county shall submit certain criminal arrest,
4 charge, and disposition information to the central repository for
5 filing without undue delay in the form and manner required by
6 sections 43.500 to ~~[43.543]~~ 43.651.

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

26 3. In instances where an individual less than seventeen
27 years of age and not currently certified as an adult is taken
28 into custody for an offense which would be a felony if committed

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

27 4. Upon certification of the individual as an adult, the
28 certifying court shall order a law enforcement agency to

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

21 5. The prosecuting attorney of each county or the circuit
22 attorney of a city not within a county or the municipal
23 prosecuting attorney shall notify the central repository on
24 standard forms supplied by the highway patrol or in a manner
25 approved by the highway patrol of his or her decision to not file
26 a criminal charge on any charge referred to such prosecuting
27 attorney or circuit attorney for criminal charges. All records
28 forwarded to the central repository and the courts by prosecutors

1 or circuit attorneys as required by sections 43.500 to 43.530
2 shall include the state offense cycle number of the offense, the
3 charge code for the offense, and the originating agency
4 identifier number of the reporting prosecutor, using such numbers
5 as assigned by the highway patrol.

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

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

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

23 (3) Judgments terminating or revoking a sentence to
24 probation, supervision or conditional release and any
25 resentencing after such revocation; and

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

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

17 8. Information and fingerprints, photograph and if
18 available, any other unique biometric identification collected,
19 forwarded to the central repository, normally obtained from a
20 person at the time of the arrest, may be obtained at any time the
21 subject is in the criminal justice system or committed to the
22 department of mental health. A law enforcement agency or the
23 department of corrections may fingerprint, photograph, and
24 capture any other unique biometric identification of the person
25 unless collecting other unique biometric identification of the
26 person is not financially feasible for the law enforcement
27 agency, and obtain the necessary information at any time the
28 subject is in custody. If at the time of any court appearance,

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

17 9. The department of corrections and the department of
18 mental health shall furnish the central repository with all
19 information concerning the receipt, escape, execution, death,
20 release, pardon, parole, commutation of sentence, granting of
21 executive clemency, legal name change, or discharge of an
22 individual who has been sentenced to that department's custody
23 for any offenses which are mandated by law to be collected,
24 maintained or disseminated by the central repository. All
25 records forwarded to the central repository by the department as
26 required by sections 43.500 to ~~[43.543]~~ 43.651 shall include the
27 offense cycle number of the offense, and the originating agency
28 identifier number of the department using such numbers as

1 assigned by the highway patrol.

2 43.504. Notwithstanding section 610.120, the sheriff of any
3 county, the sheriff of the city of St. Louis, and the judges of
4 the circuit courts of this state may make available, for review,
5 information obtained from the central repository to private
6 entities responsible for probation supervision pursuant to
7 sections 559.600 to 559.615. When the term of probation is
8 completed or when the material is no longer needed for purposes
9 related to the probation, it shall be returned to the court or
10 destroyed. Criminal history information obtained from the
11 central repository may be made available to private entities
12 responsible for providing services associated with drug treatment
13 courts under sections 478.001 to 478.008. The private entities
14 shall not use or make this information available to any other
15 person for any other purpose.

16 43.506. 1. Those offenses considered reportable for the
17 purposes of sections 43.500 to [43.543] 43.651 include all
18 felonies; class A misdemeanors; all violations for driving under
19 the influence of drugs or alcohol; any offense that can be
20 enhanced to a class A misdemeanor or higher for subsequent
21 violations; and comparable ordinance violations consistent with
22 the reporting standards established by the National Crime
23 Information Center, Federal Bureau of Investigation, for the
24 Federal Interstate Identification Index System; and all cases
25 arising under chapter 566. The following types of offenses shall
26 not be considered reportable for the purposes of sections 57.403,
27 43.500 to [43.543] 43.651, and 595.200 to 595.218: nonspecific
28 charges of suspicion or investigation, general traffic violations

1 and all misdemeanor violations of the state wildlife code. All
2 offenses considered reportable shall be reviewed annually and
3 noted in the Missouri charge code manual established in section
4 43.512. All information collected pursuant to sections 43.500 to
5 ~~[43.543]~~ 43.651 shall be available only as set forth in section
6 610.120.

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

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

18 43.509. The director of the department of public safety
19 shall, in accordance with the provisions of chapter 536,
20 establish such rules and regulations as are necessary to
21 implement the provisions of sections 43.500 to ~~[43.543]~~ 43.651.
22 All collection and dissemination of criminal history information
23 shall be in compliance with chapter 610 and applicable federal
24 laws or regulations. Such rules shall relate to the collection
25 of criminal history information from or dissemination of such
26 information to criminal justice, noncriminal justice, and private
27 agencies or citizens both in this and other states. No rule or
28 portion of a rule promulgated under the authority of sections

1 43.500 to ~~[43.543]~~ 43.651 shall become effective unless it has
2 been promulgated pursuant to the provisions of section 536.024.

3 43.527. For purposes of sections 43.500 to ~~[43.543]~~ 43.651
4 all federal and nonstate of Missouri agencies and persons shall
5 pay for criminal records checks, fingerprint searches, and any of
6 the information as defined in subdivision (4) of section 43.500,
7 when such information is not related to the administration of
8 criminal justice. There shall be no charge for information
9 supplied to criminal justice agencies for the administration of
10 criminal justice. For purposes of sections 43.500 to ~~[43.543]~~
11 43.651 the administration of criminal justice is defined in
12 subdivision (1) of section 43.500 and shall be available only as
13 set forth in section 610.120.

14 43.530. 1. For each request requiring the payment of a fee
15 received by the central repository, the requesting entity shall
16 pay a fee of not more than nine dollars per request for criminal
17 history record information not based on a fingerprint search. In
18 each year beginning on or after January 1, 2010, the
19 superintendent may increase the fee paid by requesting entities
20 by an amount not to exceed one dollar per year, however, under no
21 circumstance shall the fee paid by requesting entities exceed
22 fifteen dollars per request.

23 2. For each request requiring the payment of a fee received
24 by the central repository, the requesting entity shall pay a fee
25 of not more than twenty dollars per request for criminal history
26 record information based on a fingerprint search, unless the
27 request is required under the provisions of subdivision (6) of
28 section 210.481, section 210.487, or section 571.101, in which

1 case the fee shall be fourteen dollars.

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

19 43.535. 1. Law enforcement agencies within the state of
20 Missouri may perform a Missouri criminal record review for only
21 open records through the [MULES] central repository's automated
22 criminal history system for the purpose of hiring of municipal or
23 county governmental employees. For each request, other than
24 those related to the administration of criminal justice, the
25 requesting entity shall pay a fee to the central repository,
26 pursuant to section 43.530. For purposes of this section,
27 "requesting entity" shall not be the law enforcement agency
28 unless the request is made by the law enforcement agency for

1 purposes of hiring law enforcement personnel.

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

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

25 43.540. 1. As used in this section, the following terms
26 mean:

27 (1) ["Authorized state agency", a division of state
28 government or an office of state government designated by the

1 statutes of Missouri to issue or renew a license, permit,
2 certification, or registration of authority to a qualified
3 entity] "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 with a
11 qualified entity; or

12 (e) Owns or operates a qualified entity;

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

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

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

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

28 [(5)] (6) "National Rap Back program", shall include any

1 type of automatic notification made by Federal Bureau of
2 Investigation through the Missouri state highway patrol to a
3 qualified entity indicating that an applicant who is employed,
4 licensed, or otherwise under the purview of that entity has been
5 arrested for a reported criminal offense outside the state of
6 Missouri and the fingerprints for that arrest were forwarded to
7 the Federal Bureau of Investigation by the arresting agency;

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

15 [(6) "Provider", a person who:

16 (a) Has or may have unsupervised access to children, the
17 elderly, or persons with disabilities; and

18 (b) a. Is employed by or seeks employment with a qualified
19 entity; or

20 b. Volunteers or seeks to volunteer with a qualified
21 entity; or

22 c. Owns or operates a qualified entity;

23 (7)] (8) "Qualified entity", an entity that is:

24 (a) A person, business, or organization, whether public or
25 private, for profit, not for profit, or voluntary, that provides
26 care, care placement, or educational services for children, the
27 elderly, or persons with disabilities as patients or residents,
28 including a business or organization that licenses or certifies

1 others to provide care or care placement services;

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

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

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

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

18 ~~[(8)]~~ (9) "Youth services agency", any public or private
19 agency, school, or association which provides programs, care or
20 treatment for or which exercises supervision over minors.

21 2. [A qualified entity may obtain a Missouri criminal
22 record review of a provider from the highway patrol by furnishing
23 information on forms and in the manner approved by the highway
24 patrol.] The central repository shall have the authority to
25 submit applicant fingerprints to the National Rap Back program to
26 be retained for the purpose of being searched against future
27 submissions to the National Rap Back program, including latent
28 fingerprint searches. Qualified entities may conduct Missouri

1 and national criminal record reviews on applicants and
2 participate in Missouri and National Rap Back programs for the
3 purpose of determining suitability or fitness for a permit,
4 license, or employment, and shall abide by the following
5 requirements:

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

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

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

22 (4) The criminal record review and Rap Back process
23 described in this section shall be voluntary and conform to the
24 requirements established in the National Child Protection Act of
25 1993, as amended, and other applicable state or federal law. As
26 a part of the registration, the qualified entity shall agree to
27 comply with state and federal law and shall indicate so by
28 signing an agreement approved by the Missouri state highway

1 patrol. The Missouri state highway patrol may periodically audit
2 qualified entities to ensure compliance with federal law and this
3 section;

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

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

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

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

22 (9) The determination whether the criminal history record
23 shows that the applicant has been convicted of, or has a pending
24 charge, for any crime that bears upon the fitness of the
25 applicant to have responsibility for the safety and well-being of
26 children, the elderly, or disabled persons shall be made solely
27 by the qualified entity. This section shall not require the
28 Missouri state highway patrol to make such a determination on

1 behalf of any qualified entity;

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

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

26 3. [A qualified entity may request a Missouri criminal
27 record review and a national criminal record review of a provider
28 through an authorized state agency. No authorized state agency

1 is required by this section to process Missouri or national
2 criminal record reviews for a qualified entity, however, if an
3 authorized state agency agrees to process Missouri and national
4 criminal record reviews for a qualified entity, the qualified
5 entity shall provide to the authorized state agency on forms and
6 in a manner approved by the highway patrol the following:

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

9 (2) A statement signed by the provider which contains:

10 (a) The provider's name, address, and date of birth;

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

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

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

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

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

26 (1) The Missouri state highway patrol, who shall conduct a
27 Missouri criminal record review, including closed record
28 information under section 610.120; and

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

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

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

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

20 (a) Name;

21 (b) Date of birth;

22 (c) Height;

23 (d) Weight;

24 (e) Eye color;

25 (f) Hair color;

26 (g) Gender;

27 (h) Race;

28 (i) Place of birth;

1 (j) Social Security Number; and

2 (k) The applicant's photo.

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

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

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

26 (2) The individual upon whom the Rap Back notification is
27 being made has previously had a Missouri and national criminal
28 record review completed for the qualified entity under this

1 section within the previous six years; and

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

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

8 43.543. Any state agency listed in section 621.045, the
9 division of professional registration of the department of
10 insurance, financial institutions and professional registration,
11 the department of social services, the supreme court of Missouri,
12 the state courts administrator, the department of elementary and
13 secondary education, the department of natural resources, the
14 Missouri lottery, the Missouri gaming commission, or any state,
15 municipal, or county agency which screens persons seeking
16 employment with such agencies or issuance or renewal of a
17 license, permit, certificate, or registration of authority from
18 such agencies; or any state, municipal, or county agency or
19 committee, or state school of higher education which is
20 authorized by state statute or executive order, or local or
21 county ordinance to screen applicants or candidates seeking or
22 considered for employment, assignment, contracting, or
23 appointment to a position within state, municipal, or county
24 government; or the Missouri peace officers standards and
25 training, POST, commission which screens persons, not employed by
26 a criminal justice agency, who seek enrollment or access into a
27 certified POST training academy police school, or persons seeking
28 a permit to purchase or possess a firearm for employment as a

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

19 43.546. 1. Any state agency, board, or commission may
20 require the fingerprinting of applicants in specified occupations
21 or appointments within the state agency, board, or commission for
22 the purpose of positive identification and receiving criminal
23 history record information when determining an applicant's
24 ability or fitness to serve in such occupation or appointment.

25 2. In order to facilitate the criminal background check
26 under subsection 1 of this section on any person employed or
27 appointed by a state agency, board, or commission, and in
28 accordance with section 43.543, the applicant or employee shall

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

11 43.547. 1. The Missouri state highway patrol, at the
12 direction of the governor, shall conduct name or fingerprint
13 background investigations of gubernatorial appointees. The
14 governor's directive shall state whether the background
15 investigation shall be a name background investigation or a
16 fingerprint background investigation. In addition, the patrol
17 may, at the governor's direction, conduct other appropriate
18 investigations to determine if an applicant or appointee is in
19 compliance with section 105.262, and other necessary inquiries to
20 determine the person's suitability for positions of public trust.

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

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

6 192.2495. 1. For the purposes of this section, the term
7 "provider" means any person, corporation or association who:

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

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

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

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

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

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

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

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

27 (1) Request a criminal background check as provided in
28 section 43.540. Completion of an inquiry to the highway patrol

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

1 request; and

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

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

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

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

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

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

28 (4) Disclose if the applicant is listed on any of the

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

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

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

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

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

28 (3) Has been found guilty of or pleaded guilty or nolo

1 contendere to any felony offense under sections 568.045, 568.050,
2 568.060, 568.175, 570.023, 570.025, 570.030, 570.040 as it
3 existed prior to January 1, 2017, 570.090, 570.145, 570.223,
4 575.230, or 576.080;

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

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

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

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

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

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

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

27 10. Except for the hiring restriction based on the
28 department of health and senior services employee

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

9 208.909. 1. Consumers receiving personal care assistance
10 services shall be responsible for:

11 (1) Supervising their personal care attendant;

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

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

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

20 (5) Reporting any problems resulting from the quality of
21 services rendered by the personal care attendant to the vendor.
22 If the consumer is unable to resolve any problems resulting from
23 the quality of service rendered by the personal care attendant
24 with the vendor, the consumer shall report the situation to the
25 department; and

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

1 2. Participating vendors shall be responsible for:

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

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

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

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

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

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

1 accordance with section 192.2495.

2 5. (1) All vendors shall, by July 1, 2015, have, maintain,
3 and use a telephone tracking system for the purpose of reporting
4 and verifying the delivery of consumer-directed services as
5 authorized by the department of health and senior services or its
6 designee. Use of such a system prior to July 1, 2015, shall be
7 voluntary. The telephone tracking system shall be used to
8 process payroll for employees and for submitting claims for
9 reimbursement to the MO HealthNet division. At a minimum, the
10 telephone tracking system shall:

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

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

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

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

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

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

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

27 (2) The department of health and senior services, in
28 collaboration with other appropriate agencies, including centers

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

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

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

28 6. In the event that a consensus between centers for

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

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

10 210.025. 1. An applicant child care provider; persons
11 employed by the applicant child care provider for compensation,
12 including contract employees or self-employed individuals;
13 individuals or volunteers whose activities involve the care or
14 supervision of children for the applicant child care provider or
15 unsupervised access to children who are cared for or supervised
16 by the applicant child care provider; or individuals residing in
17 the applicant's family child care home who are seventeen years of
18 age or older shall be required to submit to a criminal background
19 check under section 43.540 prior to an applicant being granted a
20 registration and every five years thereafter and an annual check
21 of the central registry for child abuse established in section
22 210.145 in order for the applicant to qualify for receipt of
23 state or federal funds for providing child-care services [in the
24 home] either by direct payment or through reimbursement to a
25 child-care beneficiary[, an applicant and any person over the age
26 of seventeen who is living in the applicant's home shall be
27 required to submit to a criminal background check pursuant to
28 section 43.540 and a check of the central registry for child

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

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

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

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

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

28 3. Except as otherwise provided in subsection 4 of this

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

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

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

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

28 4. An applicant shall be given an opportunity by the

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

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

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

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

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

5 210.254. 1. Child-care facilities operated by religious
6 organizations pursuant to the exempt status recognized in
7 subdivision (5) of section 210.211 shall upon enrollment of any
8 child provide the parent or guardian enrolling the child two
9 copies of a notice of parental responsibility, one copy of which
10 shall be retained in the files of the facility after the
11 enrolling parent acknowledges, by signature, having read and
12 accepted the information contained therein.

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

15 (1) Notification that the child-care facility is exempt as
16 a religious organization from state licensing and therefore not
17 inspected or supervised by the department of health and senior
18 services other than as provided herein and that the facility has
19 been inspected by those designated in section 210.252 and is
20 complying with the fire, health and sanitation requirements of
21 sections 210.252 to 210.257;

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

25 (3) The staff/child ratios for enrolled children under two
26 years of age, for children ages two to four and for those five
27 years of age and older as required by the department of health
28 and senior services regulations in licensed facilities, the

1 standard ratio of staff to number of children for each age level
2 maintained in the exempt facility, and the total number of
3 children to be enrolled by the facility;

4 (4) Notification that background checks have been conducted
5 [on each individual caregiver and all other personnel at the
6 facility. The background check shall be conducted upon
7 employment and every two years thereafter on each individual
8 caregiver and all other personnel at the facility. Such
9 background check shall include a screening for child abuse or
10 neglect through the children's division, and a criminal record
11 review through the Missouri highway patrol pursuant to section
12 43.540. The fee for the criminal record review shall be limited
13 to the actual costs incurred by the Missouri highway patrol in
14 conducting such review not to exceed ten dollars] under the
15 provisions of section 210.1080;

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

18 (6) The educational philosophy and policies of the
19 child-care facility.

20 3. A copy of notice of parental responsibility, signed by
21 the principal operating officer of the exempt child-care facility
22 and the individual primarily responsible for the religious
23 organization conducting the child-care facility and copies of the
24 annual fire and safety inspections shall be filed annually during
25 the month of August with the [director of the] department of
26 health and senior services. [Exempt child-care facilities which
27 begin operation after August 28, 1993, shall file such notice at
28 least five days prior to starting to operate.]

1 210.258. The provisions of this section and section 210.259
2 apply to a child care facility maintained or operated under the
3 exclusive control of a religious organization. Nothing in
4 sections 210.252 to 210.257 shall be construed to authorize the
5 department of health and senior services or any other
6 governmental entity:

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

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

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

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

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

21
22 Nothing in subdivisions (2) and (3) of this section shall be
23 interpreted to relieve a child care facility of its duties and
24 obligations under section 210.1080, or to interfere with the
25 department's duties and obligations under said section.

26 210.482. 1. If the emergency placement of a child in a
27 private home is necessary due to the unexpected absence of the
28 child's parents, legal guardian, or custodian, the juvenile court

1 or children's division:

2 (1) May request that a local or state law enforcement
3 agency or juvenile officer, subject to any required federal
4 authorization, immediately conduct a name-based criminal history
5 record check to include full orders of protection and outstanding
6 warrants of each person over the age of seventeen residing in the
7 home by using the Missouri uniform law enforcement system (MULES)
8 and the National Crime Information Center to access the
9 Interstate Identification Index maintained by the Federal Bureau
10 of Investigation; and

11 (2) Shall determine or, in the case of the juvenile court,
12 shall request the division to determine whether any person over
13 the age of seventeen years residing in the home is listed on the
14 child abuse and neglect registry. For any children less than
15 seventeen years of age residing in the home, the children's
16 division shall inquire of the person with whom an emergency
17 placement of a child will be made whether any children less than
18 seventeen years of age residing in the home have ever been
19 certified as an adult and convicted of or pled guilty or nolo
20 contendere to any crime.

21 2. If a name-based search has been conducted pursuant to
22 subsection 1 of this section, within fifteen calendar days after
23 the emergency placement of the child in the private home, and if
24 the private home has not previously been approved as a foster or
25 adoptive home, all persons over the age of seventeen residing in
26 the home and all children less than seventeen residing in the
27 home who the division has determined have been certified as an
28 adult for the commission of a crime shall report to a local law

1 enforcement agency for the purpose of providing [three sets of]
2 fingerprints [each] and accompanying fees, pursuant to [section]
3 sections 43.530 and 43.540. [One set of fingerprints shall be
4 used by the highway patrol to search the criminal history
5 repository, one set shall be forwarded to the Federal Bureau of
6 Investigation for searching the federal criminal history files,
7 and one set shall be forwarded to and retained by the division.]
8 Results of the checks shall be provided to the juvenile court or
9 children's division office requesting such information. Any
10 child placed in emergency placement in a private home shall be
11 removed immediately if any person residing in the home fails to
12 provide fingerprints after being requested to do so, unless the
13 person refusing to provide fingerprints ceases to reside in the
14 private home.

15 3. If the placement of a child is denied as a result of a
16 name-based criminal history check and the denial is contested,
17 all persons over the age of seventeen residing in the home and
18 all children less than seventeen years of age residing in the
19 home who the division has determined have been certified as an
20 adult for the commission of a crime shall, within fifteen
21 calendar days, submit to the juvenile court or the children's
22 division [three sets of] fingerprints in the same manner
23 described in subsection 2 of this section, accompanying fees, and
24 written permission authorizing the juvenile court or the
25 children's division to forward the fingerprints to the state
26 criminal record repository for submission to the Federal Bureau
27 of Investigation. [One set of fingerprints shall be used by the
28 highway patrol to search the criminal history repository, one set

1 shall be forwarded to the Federal Bureau of Investigation for
2 searching the federal criminal history files, and one set shall
3 be retained by the division.]

4 4. No person who submits fingerprints under this section
5 shall be required to submit additional fingerprints under this
6 section or section 210.487 unless the original fingerprints
7 retained by the division are lost or destroyed.

8 5. Subject to appropriation, the total cost of
9 fingerprinting required by this section may be paid by the state,
10 including reimbursement of persons incurring fingerprinting costs
11 under this section.

12 6. For the purposes of this section, "emergency placement"
13 refers to those limited instances when the juvenile court or
14 children's division is placing a child in the home of private
15 individuals, including neighbors, friends, or relatives, as a
16 result of a sudden unavailability of the child's primary
17 caretaker.

18 210.487. 1. When conducting investigations of persons for
19 the purpose of foster parent licensing, the division shall:

20 (1) Conduct a search for all persons over the age of
21 seventeen in the applicant's household and for any child less
22 than seventeen years of age residing in the applicant's home who
23 the division has determined has been certified as an adult for
24 the commission of a crime for evidence of full orders of
25 protection. The office of state courts administrator shall allow
26 access to the automated court information system by the division.
27 The clerk of each court contacted by the division shall provide
28 the division information within ten days of a request; and

1 (2) Obtain [three sets of] fingerprints for any person over
2 the age of seventeen in the applicant's household and for any
3 child less than seventeen years of age residing in the
4 applicant's home who the division has determined has been
5 certified as an adult for the commission of a crime in the same
6 manner set forth in subsection 2 of section 210.482. [One set of
7 fingerprints shall be used by the highway patrol to search the
8 criminal history repository, one set shall be forwarded to the
9 Federal Bureau of Investigation for searching the federal
10 criminal history files, and one set shall be forwarded to and
11 retained by the division.] The highway patrol shall assist the
12 division and provide the criminal fingerprint background
13 information, upon request pursuant to section 43.540; and

14 (3) Determine whether any person over the age of seventeen
15 residing in the home and any child less than seventeen years of
16 age residing in the applicant's home who the division has
17 determined has been certified as an adult for the commission of a
18 crime is listed on the child abuse and neglect registry. For any
19 children less than seventeen years of age residing in the
20 applicant's home, the children's division shall inquire of the
21 applicant whether any children less than seventeen years of age
22 residing in the home have ever been certified as an adult and
23 been convicted of or pled guilty or nolo contendere to any crime.

24 2. After the initial investigation is completed under
25 subsection 1 of this section:

26 (1) No person who submits fingerprints under subsection 1
27 of this section or section 210.482 shall be required to submit
28 additional fingerprints under this section or section 210.482

1 unless the original fingerprints retained by the division are
2 lost or destroyed; and

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

6 3. Subject to appropriation, the total cost of
7 fingerprinting required by this section may be paid by the state,
8 including reimbursement of persons incurring fingerprinting costs
9 under this section.

10 4. The division may make arrangements with other executive
11 branch agencies to obtain any investigative background
12 information.

13 5. The division may promulgate rules that are necessary to
14 implement the provisions of this section. Any rule or portion of
15 a rule, as that term is defined in section 536.010, that is
16 created under the authority delegated in this section shall
17 become effective only if it complies with and is subject to all
18 of the provisions of chapter 536 and, if applicable, section
19 536.028. This section and chapter 536 are nonseverable and if
20 any of the powers vested with the general assembly pursuant to
21 chapter 536 to review, to delay the effective date, or to
22 disapprove and annul a rule are subsequently held
23 unconstitutional, then the grant of rulemaking authority and any
24 rule proposed or adopted after August 28, 2004, shall be invalid
25 and void.

26 210.1080. 1. As used in this section, the following terms
27 mean:

28 (1) "Child care staff member", a child care provider;

1 persons employed by the child care provider for compensation,
2 including contract employees or self-employed individuals;
3 individuals or volunteers whose activities involve the care or
4 supervision of children for a child care provider or unsupervised
5 access to children who are cared for or supervised by a child
6 care provider; or individuals residing in a family child care
7 home who are seventeen years of age and older;

8 (2) "Criminal background check":

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

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

12 (c) A search of the following registries, repositories, or
13 databases in Missouri, the state where the child care staff
14 member resides, and each state where such staff member resided
15 during the preceding five years:

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

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

20 c. The state-based child abuse and neglect registry and
21 database.

22 2. (1) Prior to the employment or presence of a child care
23 staff member in a family child care home, group child care home,
24 child care center, or license-exempt child care facility, the
25 child care provider shall request the results of a criminal
26 background check for such child care staff member from the
27 department of health and senior services.

28 (2) A prospective child care staff member may begin work

1 for a child care provider after the criminal background check has
2 been requested from the department; however, pending completion
3 of the criminal background check, the prospective child care
4 staff member shall be supervised at all times by another child
5 care staff member who received a qualifying result on the
6 criminal background check within the past five years.

7 (3) A family child care home, group child care home, child
8 care center, or license-exempt child care facility that has child
9 care staff members at the time this section becomes effective
10 shall request the results of a criminal background check for all
11 child care staff members by January 31, 2019, unless the
12 requirements of subsection 5 of this section are met by the child
13 care provider and proof is submitted to the department of health
14 and senior services by January 31, 2019.

15 3. The costs of the criminal background check shall be the
16 responsibility of the child care staff member but may be paid or
17 reimbursed by the child care provider at the provider's
18 discretion. The fees charged for the criminal background check
19 shall not exceed the actual cost of processing and
20 administration.

21 4. Except as otherwise provided in subsection 2 of this
22 section, upon completion of the criminal background check, any
23 child care staff member or prospective child care staff member
24 shall be ineligible for employment or presence at a family child
25 care home, a group child care home, a licensed child care center,
26 or a license-exempt child care facility if such person:

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

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

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

7 (4) Has a finding of child abuse or neglect under section
8 210.145 or 210.152 or any other finding of child abuse or neglect
9 based on any other state's registry or database;

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

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

12 (b) Child abuse or neglect;

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

14 (d) Spousal abuse;

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

16 (f) Kidnapping;

17 (g) Arson;

18 (h) Physical assault or battery; or

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

21 (6) Has been convicted of a violent misdemeanor committed
22 as an adult against a child, including the following crimes:
23 child abuse, child endangerment, or sexual assault, or of a
24 misdemeanor involving child pornography; or

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

27
28 Adult household members seventeen years of age and older in a

1 family child care home shall be ineligible to maintain a presence
2 at a family child care home if any one or more of the provisions
3 of this subsection applies to them.

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

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

11 (2) The department of health and senior services provided
12 to the first provider a qualifying criminal background check
13 result, consistent with this section, for the staff member; and

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

18 6. (1) The department of health and senior services shall
19 process the request for a criminal background check for any
20 prospective child care staff member or child care staff member as
21 expeditiously as possible, but not to exceed forty-five days
22 after the date on which the provider submitted the request.

23 (2) The department shall provide the results of the
24 criminal background check to the child care provider in a
25 statement that indicates whether the prospective child care staff
26 member or child care staff member is eligible or ineligible for
27 employment or presence at the child care facility. The
28 department shall not reveal to the child care provider any

1 disqualifying crime or other related information regarding the
2 prospective child care staff member or child care staff member.

3 (3) If such prospective child care staff member or child
4 care staff member is ineligible for employment or presence at the
5 child care facility, the department shall, when providing the
6 results of criminal background check, include information related
7 to each disqualifying crime or other related information, in a
8 report to such prospective child care staff member or child care
9 staff member, along with information regarding the opportunity to
10 appeal under subsection 7 of this section.

11 7. The prospective child care staff member or child care
12 staff member may appeal in writing to the department to challenge
13 the accuracy or completeness of the information contained in his
14 or her criminal background check, or to offer information
15 mitigating the results and explaining why an eligibility
16 exception should be granted. The department of health and senior
17 services shall attempt to verify the accuracy of the information
18 challenged by the individual, including making an effort to
19 locate any missing disposition information related to the
20 disqualifying crime. The appeal shall be filed within ten days
21 from the delivery or mailing of the notice of ineligibility. The
22 department shall make a decision on the appeal in a timely
23 manner.

24 8. The department may adopt emergency rules to implement
25 the requirements of this section. Any rule or portion of a rule,
26 as that term is defined in section 536.010, that is created under
27 the authority delegated in this section shall become effective
28 only if it complies with and is subject to all of the provisions

1 of chapter 536, and, if applicable, section 536.028. This
2 section and chapter 536 are nonseverable, and if any of the
3 powers vested with the general assembly pursuant to chapter 536
4 to review, to delay the effective date, or to disapprove and
5 annul a rule are subsequently held unconstitutional, then the
6 grant of rulemaking authority and any rule proposed or adopted
7 after August 28, 2018, shall be invalid and void.

8 302.060. 1. The director shall not issue any license and
9 shall immediately deny any driving privilege:

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

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

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

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

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

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

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

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

6 (9) To any person who has been convicted more than twice of
7 violating state law, or a county or municipal ordinance where the
8 defendant was represented by or waived the right to an attorney
9 in writing, relating to driving while intoxicated; except that,
10 after the expiration of ten years from the date of conviction of
11 the last offense of violating such law or ordinance relating to
12 driving while intoxicated, a person who was so convicted may
13 petition the circuit court of the county in which such last
14 conviction was rendered and the court shall review the person's
15 habits and conduct since such conviction, including the results
16 of a criminal history check as defined in section 302.010. If
17 the court finds that the petitioner has not been found guilty of,
18 and has no pending charges for any offense related to alcohol,
19 controlled substances or drugs and has no other alcohol-related
20 enforcement contacts as defined in section 302.525 during the
21 preceding ten years and that the petitioner's habits and conduct
22 show such petitioner to no longer pose a threat to the public
23 safety of this state, the court shall order the director to issue
24 a license to the petitioner if the petitioner is otherwise
25 qualified pursuant to the provisions of sections 302.010 to
26 302.540. No person may obtain a license pursuant to the
27 provisions of this subdivision through court action more than one
28 time;

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

23 (11) To any person who is otherwise disqualified pursuant
24 to the provisions of this chapter, chapter 303, or section
25 544.046;

26 (12) To any person who is under the age of eighteen years,
27 if such person's parents or legal guardians file a certified
28 document with the department of revenue stating that the director

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

13 2. Any person whose license is reinstated under the
14 provisions of subdivision (9) or (10) of subsection 1 of this
15 section shall be required to file proof with the director of
16 revenue that any motor vehicle operated by the person is equipped
17 with a functioning, certified ignition interlock device as a
18 required condition of reinstatement. The ignition interlock
19 device required for reinstatement under this subsection and for
20 obtaining a limited driving privilege under paragraph (a) or (b)
21 of subdivision (8) of subsection 3 of section 302.309 shall have
22 a photo identification technology feature, and a court may
23 require a global positioning system feature for such device. The
24 ignition interlock device shall further be required to be
25 maintained on all motor vehicles operated by the person for a
26 period of not less than six months immediately following the date
27 of reinstatement. If the monthly monitoring reports show that
28 the ignition interlock device has registered any confirmed blood

1 alcohol concentration readings above the alcohol setpoint
2 established by the department of transportation or that the
3 person has tampered with or circumvented the ignition interlock
4 device within the last three months of the six-month period of
5 required installation of the ignition interlock device, then the
6 period for which the person must maintain the ignition interlock
7 device following the date of reinstatement shall be extended
8 until the person has completed three consecutive months with no
9 violations as described in this section. If the person fails to
10 maintain such proof with the director, the license shall be
11 suspended until proof as required by this section is filed with
12 the director.

13 3. Any person who petitions the court for reinstatement of
14 his or her license pursuant to subdivision (9) or (10) of
15 subsection 1 of this section shall make application with the
16 Missouri state highway patrol as provided in section 43.540, and
17 shall submit [two sets of] fingerprints collected pursuant to
18 standards as determined by the highway patrol. [One set of]
19 Fingerprints shall be used by the highway patrol to search the
20 criminal history repository and [the second set shall be
21 forwarded to] the Federal Bureau of Investigation for searching
22 the federal criminal history files. At the time of application,
23 the applicant shall supply to the highway patrol the court name
24 and case number for the court where he or she has filed his or
25 her petition for reinstatement. The applicant shall pay the fee
26 for the state criminal history check pursuant to section 43.530
27 and pay the appropriate fee determined by the Federal Bureau of
28 Investigation for the federal criminal history record. The

1 Missouri highway patrol, upon receipt of the results of the
2 criminal history check, shall forward a copy of the results to
3 the circuit court designated by the applicant and to the
4 department. Notwithstanding the provisions of section 610.120,
5 all records related to any criminal history check shall be
6 accessible and available to the director and the court.

7 313.810. 1. A person shall not be issued a license to
8 conduct gambling games on an excursion gambling boat or a license
9 to operate an excursion gambling boat, an occupational license,
10 or a supplier license unless the person has completed and signed
11 an application on the form prescribed and published by the
12 commission. The application shall include the full name,
13 residence, date of birth and other personal identifying
14 information as the commission deems necessary, including but not
15 limited to, the information specified in section 313.847. The
16 application shall also indicate whether the applicant has any of
17 the following:

- 18 (1) A record of conviction of a felony; or
- 19 (2) A current addiction to a controlled substance.

20 2. The commission shall submit [two sets of] fingerprints
21 for any person seeking employment with the commission or any
22 person who is seeking the issuance or renewal of a license issued
23 by the commission, for the purpose of checking the person's prior
24 criminal history when the commission determines a nationwide
25 check is warranted. The fingerprint cards and any required fees
26 shall be sent to the Missouri state highway patrol's central
27 repository. The [first set of] fingerprints shall be used for
28 searching the state [repository of] criminal history

1 [information. The second set of fingerprints] repository and
2 shall also be forwarded to the Federal Bureau of Investigation[,
3 Identification Division,] for the searching of the federal
4 criminal history files pursuant to section 43.540. The patrol
5 shall notify the commission of any criminal history information
6 or lack of criminal history information discovered on the
7 individual. Notwithstanding the provisions of section 610.120,
8 all records related to any criminal history information
9 discovered shall be accessible and available to the commission.

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

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

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

21 6. The licensee shall permit the commission or commission
22 employees designated to inspect the licensee or holder's person,
23 personal property, excursion gambling boat and effects at any
24 time.

25 610.120. 1. Except as otherwise provided under section
26 610.124, records required to be closed shall not be destroyed;
27 they shall be inaccessible to the general public and to all
28 persons other than the defendant except as provided in this

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

27 2. These records shall be made available only for the
28 purposes and to the entities listed in this section. A criminal

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