

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 40

AN ACT

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

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

Section A. Section 210.493, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 171.097, 195.817, and 210.493, to read as follows:

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

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

3. If, as a result of the criminal history background check required under this section, it is determined that a person who requested enrollment has been convicted of a crime or offense listed in subsection 6 of section 168.071, or a similar crime or offense committed in another state, the United States, or any other country, regardless of

imposition of sentence, the school district shall prohibit such person from enrolling in any course for which a state criminal history background check is required under this section.

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

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

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

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

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

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

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

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

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

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

(3) "Employee", an individual who works in the service of a licensed residential care facility, license-exempt residential care facility, or child placing agency under an express or implied contract for hire, whether written or unwritten or full time or part time, under which the licensed residential care facility, license-exempt residential care facility, or child placing agency has the right to control, in whole or in part, the details of the individual's work performance;

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

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

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

[2. Officers, managers,]

3. Contractors, volunteers with access to children, and employees[, and other support staff] of residential care facilities subject to the notification requirements under sections 210.1250 to 210.1286; any person eighteen years of age or older who resides at or on the property of such residential care facility; any person who has unsupervised contact with a resident of the residential care facility; and owners of such residential care facilities who will have access to the facilities shall submit fingerprints and any information that the department requires to complete the background checks, as specified in regulations established by the department, to the Missouri state highway patrol for

the purpose of conducting state and federal fingerprint-based background checks.

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

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

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

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

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

(b) The state sex offender registry or repository;

(c) The state family care safety registry; and

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

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

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

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

**[7.]** 8. Fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's central repository. The fingerprints shall be used for searching the state criminal records repository and shall also be

forwarded to the Federal Bureau of Investigation for a federal criminal records search under section 43.540. The Missouri state highway patrol shall notify the department of any criminal history record information or lack of criminal history record information discovered on the individual. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the department.

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

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

**[10.]** 11. The department shall provide the results of the background check to the applicant in a statement that indicates whether the applicant is eligible or ineligible for employment or presence at the residential care facility subject to the notification requirements of sections 210.1250 to 210.1286. The department shall not reveal to the residential care facility any disqualifying offense or other related information regarding the applicant. The applicant shall have the opportunity to appeal an ineligible finding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Any felony for armed criminal action as defined in section 571.015, unlawful use of a weapon as defined in

section 571.030, unlawful possession of a firearm as defined in section 571.070, or the unlawful possession of an explosive as defined in section 571.072;

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

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

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

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

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

**[14.]** 15. The department is authorized to promulgate rules, including emergency rules, to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 14, 2021, shall be invalid and void.