

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1350
99TH GENERAL ASSEMBLY

4530H.08T

2018

AN ACT

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

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

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43.547, 192.2495, 208.909, 210.025, 210.254, 210.258, 210.482, 3 210.487, 302.060, 313.810, and 610.120, RSMo, are repealed and twenty-three new sections 4 enacted in lieu thereof, to be known as sections 43.500, 43.503, 43.504, 43.506, 43.509, 43.527, 5 43.530, 43.535, 43.540,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

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

(1) "Administration of criminal justice", performance of any of the following activities: 2 3 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, 4 correctional supervision, or rehabilitation of accused persons or criminal offenders. The 5 administration of criminal justice shall include **the screening of employees or applicants** 6 **seeking employment with criminal justice agencies**, criminal identification activities, and the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 7 collection, storage, and dissemination of criminal history information, including fingerprint
8 searches, photographs, and other unique biometric identification;
- 9 (2) "Central repository", the division within the Missouri state highway patrol
10 responsible for compiling and disseminating complete and accurate criminal history records ~~and~~
11 ~~for compiling, maintaining, and disseminating criminal incident and arrest reports~~ and statistics;
- 12 (3) "Committee", criminal records and justice information advisory committee;
- 13 (4) "Comparable ordinance violation", a violation of an ordinance having all the essential
14 elements of a statutory felony or a class A misdemeanor;
- 15 (5) "Criminal history record information", information collected by criminal justice
16 agencies on individuals consisting of identifiable descriptions and notations of arrests,
17 detentions, indictments, informations, or other formal criminal charges, and any disposition
18 arising therefrom, sentencing, correctional supervision, and release;
- 19 (6) "Final disposition", the formal conclusion of a criminal proceeding at whatever stage
20 it occurs in the criminal justice system;
- 21 (7) "Missouri charge code", a unique number assigned by the office of state courts
22 administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the
23 complete charge code shall consist of digits assigned by the office of state courts administrator,
24 the two-digit national crime information center modifiers and a single digit designating attempt,
25 accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that
26 are not using the statewide court automation case management pursuant to section 476.055; the
27 effective date will be as soon thereafter as economically feasible for all other courts;
- 28 (8) "State offense cycle number", a unique number, supplied by or approved by the
29 Missouri state highway patrol, on the state criminal fingerprint card. The offense cycle number,
30 OCN, is used to link the identity of a person, through unique biometric identification, to one or
31 many offenses for which the person is arrested or charged. The OCN will be used to track an
32 offense incident from the date of arrest to the final disposition when the offender exits from the
33 criminal justice system;
- 34 (9) "Unique biometric identification", automated methods of recognizing and identifying
35 an individual based on a physiological characteristic. Biometric identification methods may
36 include but are not limited to facial recognition, fingerprints, palm prints, hand geometry, iris
37 recognition, and retinal scan.

43.503. 1. For the purpose of maintaining complete and accurate criminal history record
2 information, all police officers of this state, the clerk of each court, the department of corrections,
3 the sheriff of each county, the chief law enforcement official of a city not within a county and
4 the prosecuting attorney of each county or the circuit attorney of a city not within a county shall
5 submit certain criminal arrest, charge, and disposition information to the central repository for

6 filing without undue delay in the form and manner required by sections 43.500 to [43.543]
7 **43.651.**

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

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

39 4. Upon certification of the individual as an adult, the certifying court shall order a law
40 enforcement agency to immediately fingerprint and photograph the individual and certification
41 papers will be forwarded to the appropriate law enforcement agency with the order for

42 fingerprinting. The law enforcement agency shall submit such fingerprints, photograph, and
43 certification papers to the central repository within fifteen days and shall furnish the offense
44 cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney
45 of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If
46 the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting
47 attorney shall notify within fifteen days the central repository of the change of status of the
48 juvenile. Records of a child who has been fingerprinted and photographed after being taken into
49 custody shall be closed records as provided under section 610.100 if a petition has not been filed
50 within thirty days of the date that the child was taken into custody; and if a petition for the child
51 has not been filed within one year of the date the child was taken into custody, any records
52 relating to the child concerning the alleged offense may be expunged under the procedures in
53 sections 610.122 to 610.126.

54 5. The prosecuting attorney of each county or the circuit attorney of a city not within a
55 county or the municipal prosecuting attorney shall notify the central repository on standard forms
56 supplied by the highway patrol or in a manner approved by the highway patrol of his or her
57 decision to not file a criminal charge on any charge referred to such prosecuting attorney or
58 circuit attorney for criminal charges. All records forwarded to the central repository and the
59 courts by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include
60 the state offense cycle number of the offense, the charge code for the offense, and the originating
61 agency identifier number of the reporting prosecutor, using such numbers as assigned by the
62 highway patrol.

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

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

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

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

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

79 7. The clerk of the courts of each county or city not within a county shall furnish, to the
80 department of corrections or department of mental health, court judgment and sentence
81 documents and the state offense cycle number and the charge code of the offense which resulted
82 in the commitment or assignment of an offender to the jurisdiction of the department of
83 corrections or the department of mental health if the person is committed pursuant to chapter
84 552. This information shall be reported to the department of corrections or the department of
85 mental health at the time of commitment or assignment. If the offender was already in the
86 custody of the department of corrections or the department of mental health at the time of such
87 subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the
88 appropriate department by certified mail, return receipt requested, or in a manner and format
89 mutually agreed to, within fifteen days of such disposition.

90 8. Information and fingerprints, photograph and if available, any other unique biometric
91 identification collected, forwarded to the central repository, normally obtained from a person at
92 the time of the arrest, may be obtained at any time the subject is in the criminal justice system
93 or committed to the department of mental health. A law enforcement agency or the department
94 of corrections may fingerprint, photograph, and capture any other unique biometric identification
95 of the person unless collecting other unique biometric identification of the person is not
96 financially feasible for the law enforcement agency, and obtain the necessary information at any
97 time the subject is in custody. If at the time of any court appearance, the defendant has not been
98 fingerprinted and photographed for an offense in which a fingerprint and photograph is required
99 by statute to be collected, maintained, or disseminated by the central repository, the court shall
100 order a law enforcement agency or court marshal to fingerprint and photograph immediately the
101 defendant. The order for fingerprints shall contain the offense, charge code, date of offense, and
102 any other information necessary to complete the fingerprint card. The law enforcement agency
103 or court marshal shall submit such fingerprints, photograph, and if available, any other unique
104 biometric identification collected, to the central repository without undue delay and within thirty
105 days and shall furnish the offense cycle number associated with the fingerprints to the
106 prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of
107 the court ordering the subject fingerprinted.

108 9. The department of corrections and the department of mental health shall furnish the
109 central repository with all information concerning the receipt, escape, execution, death, release,
110 pardon, parole, commutation of sentence, granting of executive clemency, legal name change,
111 or discharge of an individual who has been sentenced to that department's custody for any
112 offenses which are mandated by law to be collected, maintained or disseminated by the central

113 repository. All records forwarded to the central repository by the department as required by
114 sections 43.500 to ~~[43.543]~~ **43.651** shall include the offense cycle number of the offense, and the
115 originating agency identifier number of the department using such numbers as assigned by the
116 highway patrol.

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

43.506. 1. Those offenses considered reportable for the purposes of sections 43.500 to
2 ~~[43.543]~~ **43.651** include all felonies; class A misdemeanors; all violations for driving under the
3 influence of drugs or alcohol; any offense that can be enhanced to a class A misdemeanor or
4 higher for subsequent violations; and comparable ordinance violations consistent with the
5 reporting standards established by the National Crime Information Center, Federal Bureau of
6 Investigation, for the Federal Interstate Identification Index System; and all cases arising under
7 chapter 566. The following types of offenses shall not be considered reportable for the purposes
8 of sections 57.403, 43.500 to ~~[43.543]~~ **43.651**, and 595.200 to 595.218: nonspecific charges of
9 suspicion or investigation, general traffic violations and all misdemeanor violations of the state
10 wildlife code. All offenses considered reportable shall be reviewed annually and noted in the
11 Missouri charge code manual established in section 43.512. All information collected pursuant
12 to sections 43.500 to ~~[43.543]~~ **43.651** shall be available only as set forth in section 610.120.

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

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

43.509. The director of the department of public safety shall, in accordance with the
2 provisions of chapter 536, establish such rules and regulations as are necessary to implement the

3 provisions of sections 43.500 to ~~[43.543]~~ **43.651**. All collection and dissemination of criminal
4 history information shall be in compliance with chapter 610 and applicable federal laws or
5 regulations. Such rules shall relate to the collection of criminal history information from or
6 dissemination of such information to criminal justice, noncriminal justice, and private agencies
7 or citizens both in this and other states. No rule or portion of a rule promulgated under the
8 authority of sections 43.500 to ~~[43.543]~~ **43.651** shall become effective unless it has been
9 promulgated pursuant to the provisions of section 536.024.

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

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

7 2. For each request requiring the payment of a fee received by the central repository, the
8 requesting entity shall pay a fee of not more than twenty dollars per request for criminal history
9 record information based on a fingerprint search, unless the request is required under the
10 provisions of subdivision (6) of section 210.481, section 210.487, or section 571.101, in which
11 case the fee shall be fourteen dollars.

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

22 unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the
23 fund to accumulate from year to year.

43.535. 1. Law enforcement agencies within the state of Missouri may perform a
2 Missouri criminal record review for only open records through the ~~[MULES]~~ **central**
3 **repository's automated criminal history** system for the purpose of hiring of municipal or
4 county governmental employees. For each request, other than those related to the administration
5 of criminal justice, the requesting entity shall pay a fee to the central repository, pursuant to
6 section 43.530. For purposes of this section, "requesting entity" shall not be the law enforcement
7 agency unless the request is made by the law enforcement agency for purposes of hiring law
8 enforcement personnel.

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

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

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

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

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

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

7 **(c) Actively volunteers or seeks to volunteer with a qualified entity;**

8 **(d) Is actively contracted with or seeks to contract with a qualified entity; or**

9 **(e) Owns or operates a qualified entity;**

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

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

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

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

21 ~~[(5)]~~ (6) **"National Rap Back program", shall include any type of automatic**
22 **notification made by the Federal Bureau of Investigation through the Missouri state**
23 **highway patrol to a qualified entity indicating that an applicant who is employed, licensed,**
24 **or otherwise under the purview of that entity has been arrested for a reported criminal**
25 **offense outside the state of Missouri and the fingerprints for that arrest were forwarded**
26 **to the Federal Bureau of Investigation by the arresting agency;**

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

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

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

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

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

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

38 ~~—— (7)]~~ (8) "Qualified entity", **an entity that is:**

39 (a) A person, business, or organization, whether public or private, for profit, not for
40 profit, or voluntary, that provides care, **care** placement, or educational services for children, the
41 elderly, or persons with disabilities as patients or residents, including a business or organization
42 that licenses or certifies others to provide care or **care** placement services;

43 (b) **An office or division of state, county, or municipal government, including a**
44 **political subdivision or a board or commission designated by statute or approved local**
45 **ordinance, to issue or renew a license, permit, certification, or registration of authority;**

46 (c) **An office or division of state, county, or municipal government, including a**
47 **political subdivision or a board or commission designated by statute or approved local**

48 ordinance, to make fitness determinations on applications for state, county, or municipal
49 government employment;

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

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

55 [(8)] (9) "Youth services agency", any public or private agency, school, or association
56 which provides programs, care or treatment for or which exercises supervision over minors.

57 2. ~~[A qualified entity may obtain a Missouri criminal record review of a provider from~~
58 ~~the highway patrol by furnishing information on forms and in the manner approved by the~~
59 ~~highway patrol.]~~ **The central repository shall have the authority to submit applicant**
60 **fingerprints to the National Rap Back program to be retained for the purpose of being**
61 **searched against future submissions to the National Rap Back program, including latent**
62 **fingerprint searches. Qualified entities may conduct Missouri and national criminal record**
63 **reviews on applicants and participate in Missouri and National Rap Back programs for the**
64 **purpose of determining suitability or fitness for a permit, license, or employment, and shall**
65 **abide by the following requirements:**

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

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

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

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

83 Missouri state highway patrol may periodically audit qualified entities to ensure
84 compliance with federal law and this section;

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

87 (6) Each request shall be accompanied by a reasonable fee, as provided in section
88 43.530, plus the amount required, if any, by the Federal Bureau of Investigation for the
89 national criminal record review and enrollment in the National Rap Back program in
90 compliance with the National Child Protection Act of 1993, as amended, and other
91 applicant state or federal laws;

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

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

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

105 (10) The qualified entity shall notify the applicant, in writing, of his or her right to
106 obtain a copy of any criminal record review, including the criminal history records, if any,
107 contained in the report, and of the applicant's right to challenge the accuracy and
108 completeness of any information contained in any such report and to obtain a
109 determination as to the validity of such challenge before a final determination regarding
110 the applicant is made by the qualified entity reviewing the criminal history information.
111 A qualified entity that is required by law to apply screening criteria, including any right
112 to contest or request an exemption from disqualification, shall apply such screening criteria
113 to the state and national criminal history record information received from the Missouri
114 state highway patrol for those applicants subject to the required screening; and

115 (11) Failure to obtain the information authorized under this section with respect
116 to an applicant shall not be used as evidence in any negligence action against a qualified
117 entity. The state, any political subdivision of the state, or any agency, officer, or employee

118 **of the state or a political subdivision shall not be liable for damages for providing the**
119 **information requested under this section.**

120 3. ~~[A qualified entity may request a Missouri criminal record review and a national~~
121 ~~criminal record review of a provider through an authorized state agency. No authorized state~~
122 ~~agency is required by this section to process Missouri or national criminal record reviews for a~~
123 ~~qualified entity, however, if an authorized state agency agrees to process Missouri and national~~
124 ~~criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized~~
125 ~~state agency on forms and in a manner approved by the highway patrol the following:~~

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

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

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

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

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

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

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

136 ~~—— (f) The right of the provider to challenge the accuracy of the report. If the challenge is~~
137 ~~to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.]~~

138 **The criminal record review shall include the submission of fingerprints to:**

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

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

143 4. ~~[The authorized state agency shall forward the required forms and fees to the highway~~
144 ~~patrol. The results of the record review shall be forwarded to the authorized state agency who~~
145 ~~will notify the qualified entity. The authorized state agency may assess a fee to the qualified~~
146 ~~entity to cover the cost of handling the criminal record review and may establish an account~~
147 ~~solely for the collection and dissemination of fees associated with the criminal record reviews.]~~

148 **The applicant subject to a criminal record review shall provide the following information**
149 **to the qualified entity:**

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

152 **(2) Consent to obtain the identifying information required to conduct the criminal**
153 **record review, which may include, but not be limited to:**

- 154 **(a) Name;**
155 **(b) Date of birth;**
156 **(c) Height;**
157 **(d) Weight;**
158 **(e) Eye color;**
159 **(f) Hair color;**
160 **(g) Gender;**
161 **(h) Race;**
162 **(i) Place of birth;**
163 **(j) Social Security number; and**
164 **(k) The applicant's photo.**

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

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

177 **(1) The agency has abided by all procedures and rules promulgated by the Missouri**
178 **state highway patrol and Federal Bureau of Investigation regarding the Missouri and**
179 **National Rap Back programs;**

180 **(2) The individual upon whom the Rap Back notification is being made has**
181 **previously had a Missouri and national criminal record review completed for the qualified**
182 **entity under this section within the previous six years; and**

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

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

 43.543. Any state agency listed in section 621.045, the division of professional
2 registration of the department of insurance, financial institutions and professional registration,
3 the department of social services, the supreme court of Missouri, the state courts administrator,

4 the department of elementary and secondary education, the department of natural resources, the
5 Missouri lottery, the Missouri gaming commission, or any state, municipal, or county agency
6 which screens persons seeking employment with such agencies or issuance or renewal of a
7 license, permit, certificate, or registration of authority from such agencies; or any state,
8 municipal, or county agency or committee, or state school of higher education which is
9 authorized by state statute or executive order, or local or county ordinance to screen applicants
10 or candidates seeking or considered for employment, assignment, contracting, or appointment
11 to a position within state, municipal, or county government; or the Missouri peace officers
12 standards and training, POST, commission which screens persons, not employed by a criminal
13 justice agency, who seek enrollment or access into a certified POST training academy police
14 school, or persons seeking a permit to purchase or possess a firearm for employment as a
15 watchman, security personnel, or private investigator; or law enforcement agencies which screen
16 persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase
17 or possess a firearm shall submit ~~[two sets of]~~ fingerprints to the Missouri state highway patrol,
18 Missouri criminal records repository, for the purpose of checking the person's criminal history
19 **under section 43.540**. The ~~[first set of]~~ fingerprints shall be used to search the Missouri
20 criminal records repository and the ~~[second set shall be submitted to the]~~ Federal Bureau of
21 Investigation to be used for searching the federal criminal history files if necessary. The
22 fingerprints shall be submitted on forms and in the manner prescribed by the Missouri state
23 highway patrol. Fees assessed for the searches shall be paid by the applicant or in the manner
24 prescribed by the Missouri state highway patrol. Notwithstanding the provisions of section
25 610.120, all records related to any criminal history information discovered shall be accessible
26 and available to the state, municipal, or county agency making the record request.

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

6 2. In order to facilitate the criminal background check under subsection 1 of this section
7 on any person employed or appointed by a state agency, board, or commission, and in accordance
8 with section 43.543, the applicant or employee shall submit a set of fingerprints collected under
9 the standards determined by the Missouri highway patrol. The fingerprints and accompanying
10 fees, unless otherwise arranged, shall be forwarded to the highway patrol to be used to search the
11 state criminal history repository and the fingerprints shall be forwarded to the Federal Bureau
12 of Investigation for a national criminal background check **under section 43.540**.

13 Notwithstanding the provisions of section 610.120, all records related to any criminal history
14 information discovered shall be accessible and available to the state agency making the request.

43.547. 1. The Missouri state highway patrol, at the direction of the governor, shall
2 conduct name or fingerprint background investigations of gubernatorial appointees. The
3 governor's directive shall state whether the background investigation shall be a name background
4 investigation or a fingerprint background investigation. In addition, the patrol may, at the
5 governor's direction, conduct other appropriate investigations to determine if an applicant or
6 appointee is in compliance with section 105.262, and other necessary inquiries to determine the
7 person's suitability for positions of public trust.

8 2. In order to facilitate the fingerprint background investigation under subsection 1 of
9 this section, and in accordance with the provisions of section ~~[43.543]~~ **43.540**, the appointee shall
10 submit a set of fingerprints collected under the standards determined by the Missouri highway
11 patrol. The fingerprints and accompanying fees, unless otherwise arranged, shall be forwarded
12 to the highway patrol to be used to search the state criminal history repository and the
13 fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal
14 background check. Any background investigation conducted at the direction of the governor
15 under subsection 1 of this section may include criminal history record information and other
16 source information obtained by the highway patrol.

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

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

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

6 (3) Employs health care providers as defined in section 376.1350 for temporary or
7 intermittent placement in health care facilities;

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

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

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

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

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

18 (1) Request a criminal background check as provided in section 43.540. Completion of
19 an inquiry to the highway patrol for criminal records that are available for disclosure to a
20 provider for the purpose of conducting an employee criminal records background check shall be
21 deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant
22 to this section; except that, completing the inquiries pursuant to this subsection shall not be
23 construed to exempt a provider from further inquiry pursuant to common law requirements
24 governing due diligence. If an applicant has not resided in this state for five consecutive years
25 prior to the date of his or her application for employment, the provider shall request a nationwide
26 check for the purpose of determining if the applicant has a prior criminal history in other states.
27 The fingerprint cards and any required fees shall be sent to the highway patrol's central
28 repository. The ~~[first set of]~~ fingerprints shall be used for searching the state repository of
29 criminal history information. If no identification is made, ~~[the second set of]~~ fingerprints shall
30 be forwarded to the Federal Bureau of Investigation~~[, Identification Division,]~~ for the searching
31 of the federal criminal history files. The patrol shall notify the submitting state agency of any
32 criminal history information or lack of criminal history information discovered on the individual.
33 The provisions relating to applicants for employment who have not resided in this state for five
34 consecutive years shall apply only to persons who have no employment history with a licensed
35 Missouri facility during that five-year period. Notwithstanding the provisions of section
36 610.120, all records related to any criminal history information discovered shall be accessible
37 and available to the provider making the record request; and

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

40 4. When the provider requests a criminal background check pursuant to section 43.540,
41 the requesting entity may require that the applicant reimburse the provider for the cost of such
42 record check. When a provider requests a nationwide criminal background check pursuant to
43 subdivision (1) of subsection 3 of this section, the total cost to the provider of any background
44 check required pursuant to this section shall not exceed five dollars which shall be paid to the
45 state. State funding and the obligation of a provider to obtain a nationwide criminal background
46 check shall be subject to the availability of appropriations.

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

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

51 (2) Disclose the applicant's criminal history. For the purposes of this subdivision
52 "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge

53 and shall include any suspended imposition of sentence, any suspended execution of sentence
54 or any period of probation or parole;

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

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

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

67 7. Any in-home services provider agency or home health agency shall be guilty of a class
68 A misdemeanor if such agency knowingly employs a person to provide in-home services or home
69 health services to any in-home services client or home health patient and such person either
70 refuses to register with the family care safety registry or ~~is listed on any of the background check~~
71 ~~lists in the family care safety registry pursuant to sections 210.900 to 210.937] if such person:~~

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

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

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

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

81 (5) **Has been found guilty of or pleaded guilty or nolo contendere to any offense**
82 **requiring registration under section 589.400;**

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

85 (7) **Is listed on the department of mental health employee disqualification registry**
86 **under section 630.170; or**

87 (8) **Has a finding on the child abuse and neglect registry under sections 210.109 to**
88 **210.183.**

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

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

95 10. Except for the hiring restriction based on the department of health and senior services
96 employee disqualification list established pursuant to section 192.2490, the department of health
97 and senior services shall promulgate rules and regulations to waive the hiring restrictions
98 pursuant to this section for good cause. For purposes of this section, "good cause" means the
99 department has made a determination by examining the employee's prior work history and other
100 relevant factors that such employee does not present a risk to the health or safety of residents.

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

3 (1) Supervising their personal care attendant;

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

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

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

9 (5) Reporting any problems resulting from the quality of services rendered by the
10 personal care attendant to the vendor. If the consumer is unable to resolve any problems
11 resulting from the quality of service rendered by the personal care attendant with the vendor, the
12 consumer shall report the situation to the department; and

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

15 2. Participating vendors shall be responsible for:

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

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

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

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

23 3. No state or federal financial assistance shall be authorized or expended to pay for
24 services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the

25 services is to the household unit, or is a household task that the members of the consumer's
26 household may reasonably be expected to share or do for one another when they live in the same
27 household, unless such service is above and beyond typical activities household members may
28 reasonably provide for another household member without a disability.

29 4. No state or federal financial assistance shall be authorized or expended to pay for
30 personal care assistance services provided by a personal care attendant who ~~[is listed on any of~~
31 ~~the background check lists in the family care safety registry under sections 210.900 to 210.937]~~
32 **has not undergone the background screening process under section 192.2495. If the**
33 **personal care attendant has a disqualifying finding under section 192.2495, no state or**
34 **federal assistance shall be made**, unless a good cause waiver is first obtained from the
35 department in accordance with section 192.2495.

36 5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a telephone tracking
37 system for the purpose of reporting and verifying the delivery of consumer-directed services as
38 authorized by the department of health and senior services or its designee. Use of such a system
39 prior to July 1, 2015, shall be voluntary. The telephone tracking system shall be used to process
40 payroll for employees and for submitting claims for reimbursement to the MO HealthNet
41 division. At a minimum, the telephone tracking system shall:

- 42 (a) Record the exact date services are delivered;
- 43 (b) Record the exact time the services begin and exact time the services end;
- 44 (c) Verify the telephone number from which the services are registered;
- 45 (d) Verify that the number from which the call is placed is a telephone number unique
46 to the client;
- 47 (e) Require a personal identification number unique to each personal care attendant;
- 48 (f) Be capable of producing reports of services delivered, tasks performed, client identity,
49 beginning and ending times of service and date of service in summary fashion that constitute
50 adequate documentation of service; and
- 51 (g) Be capable of producing reimbursement requests for consumer approval that assures
52 accuracy and compliance with program expectations for both the consumer and vendor.

53 (2) The department of health and senior services, in collaboration with other appropriate
54 agencies, including centers for independent living, shall establish telephone tracking system pilot
55 projects, implemented in two regions of the state, with one in an urban area and one in a rural
56 area. Each pilot project shall meet the requirements of this section and section 208.918. The
57 department of health and senior services shall, by December 31, 2013, submit a report to the
58 governor and general assembly detailing the outcomes of these pilot projects. The report shall
59 take into consideration the impact of a telephone tracking system on the quality of the services
60 delivered to the consumer and the principles of self-directed care.

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

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

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

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

210.025. 1. **An applicant child care provider; persons employed by the applicant
2 child care provider for compensation, including contract employees or self-employed
3 individuals; individuals or volunteers whose activities involve the care or supervision of
4 children for the applicant child care provider or unsupervised access to children who are
5 cared for or supervised by the applicant child care provider; or individuals residing in the
6 applicant's family child care home who are seventeen years of age or older shall be
7 required to submit to a criminal background check under section 43.540 prior to an
8 applicant being granted a registration and every five years thereafter and an annual check
9 of the central registry for child abuse established in section 210.109 in order for the
10 applicant to qualify for receipt of state or federal funds for providing child-care services [in the
11 home] either by direct payment or through reimbursement to a child-care beneficiary[; an
12 applicant and any person over the age of seventeen who is living in the applicant's home shall
13 be required to submit to a criminal background check pursuant to section 43.540 and a check of
14 the central registry for child abuse established in section 210.145. Effective January 1, 2001, the
15 requirements of this subsection or subsection 2 of this section shall be satisfied through
16 registration with the family care safety registry established in sections 210.900 to 210.936]. Any
17 costs associated with such checks shall be paid by the applicant.**

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

20 (1) Determine if a finding of child abuse or neglect by probable cause prior to August
21 28, 2004, or by a preponderance of the evidence after August 28, 2004, involving the applicant
22 or any person over the age of seventeen who is living in the applicant's home has been recorded
23 pursuant to section 210.145 or 210.221;

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

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

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

39 (1) Has had a finding of child abuse or neglect by probable cause prior to August 28,
40 2004, or by a preponderance of the evidence after August 28, 2004, pursuant to section 210.145
41 or section 210.152;

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

44 (3) Has pled guilty or nolo contendere to or been found guilty of any felony for an
45 offense against the person as defined by chapter 565, or any other offense against the person
46 involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for
47 a sexual offense as defined by chapter 566; of any misdemeanor or felony for an offense against
48 the family as defined in chapter 568, with the exception of the sale of fireworks, as defined in
49 section 320.110, to a child under the age of eighteen; of any misdemeanor or felony for
50 pornography or related offense as defined by chapter 573; or of any similar crime in any federal,
51 state, municipal or other court of similar jurisdiction of which the director has knowledge or any
52 offenses or reports which will disqualify an applicant from receiving state or federal funds.

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

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

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

65 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
66 under the authority delegated in this section shall become effective only if it complies with and
67 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All
68 rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed.
69 Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or
70 adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This
71 section and chapter 536 are nonseverable and if any of the powers vested with the general
72 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
73 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
74 any rule proposed or adopted after August 28, 1999, shall be invalid and void.

75 **8. (1) The provisions of subsection 1 of this section shall not apply to any child care**
76 **facility, as defined in section 210.201, maintained or operated under the exclusive control**
77 **of a religious organization, as described in subdivision (5) of subsection 1 of section**
78 **210.211, unless such facility is a recipient of federal funds for providing care for children,**
79 **except for federal funds for those programs that meet the requirements for participation**
80 **in the Child and Adult Care Food Program under 42 U.S.C. Section 1766.**

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

210.254. 1. Child-care facilities operated by religious organizations pursuant to the
2 exempt status recognized in subdivision (5) of section 210.211 shall upon enrollment of any
3 child provide the parent or guardian enrolling the child two copies of a notice of parental

4 responsibility, one copy of which shall be retained in the files of the facility after the enrolling
5 parent acknowledges, by signature, having read and accepted the information contained therein.

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

7 (1) Notification that the child-care facility is exempt as a religious organization from
8 state licensing and therefore not inspected or supervised by the department of health and senior
9 services other than as provided herein and that the facility has been inspected by those designated
10 in section 210.252 and is complying with the fire, health and sanitation requirements of sections
11 210.252 to 210.257;

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

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

19 (4) Notification that background checks have been conducted ~~[on each individual~~
20 ~~caregiver and all other personnel at the facility. The background check shall be conducted upon~~
21 ~~employment and every two years thereafter on each individual caregiver and all other personnel~~
22 ~~at the facility. Such background check shall include a screening for child abuse or neglect~~
23 ~~through the children's division, and a criminal record review through the Missouri highway patrol~~
24 ~~pursuant to section 43.540. The fee for the criminal record review shall be limited to the actual~~
25 ~~costs incurred by the Missouri highway patrol in conducting such review not to exceed ten~~
26 ~~dollars]~~ **under the provisions of section 210.1080;**

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

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

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

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

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

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

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

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

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

16

17 **Nothing in subdivisions (2) and (3) of this section shall be interpreted to relieve a child care**
18 **facility of its duties and obligations under section 210.1080, or to interfere with the**
19 **department's duties and obligations under said section.**

20 210.482. 1. If the emergency placement of a child in a private home is necessary due to
2 the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or
3 children's division:

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

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

17 2. If a name-based search has been conducted pursuant to subsection 1 of this section,
18 within fifteen calendar days after the emergency placement of the child in the private home, and
19 if the private home has not previously been approved as a foster or adoptive home, all persons
20 over the age of seventeen residing in the home and all children less than seventeen residing in
21 the home who the division has determined have been certified as an adult for the commission of

22 a crime shall report to a local law enforcement agency for the purpose of providing ~~[three sets~~
23 ~~of]~~ fingerprints ~~[each]~~ and accompanying fees, pursuant to ~~[section]~~ **sections 43.530 and 43.540.**
24 ~~[One set of fingerprints shall be used by the highway patrol to search the criminal history~~
25 ~~repository, one set shall be forwarded to the Federal Bureau of Investigation for searching the~~
26 ~~federal criminal history files, and one set shall be forwarded to and retained by the division.]~~
27 Results of the checks shall be provided to the juvenile court or children's division office
28 requesting such information. Any child placed in emergency placement in a private home shall
29 be removed immediately if any person residing in the home fails to provide fingerprints after
30 being requested to do so, unless the person refusing to provide fingerprints ceases to reside in
31 the private home.

32 3. If the placement of a child is denied as a result of a name-based criminal history check
33 and the denial is contested, all persons over the age of seventeen residing in the home and all
34 children less than seventeen years of age residing in the home who the division has determined
35 have been certified as an adult for the commission of a crime shall, within fifteen calendar days,
36 submit to the juvenile court or the children's division ~~[three sets of]~~ fingerprints in the same
37 manner described in subsection 2 of this section, accompanying fees, and written permission
38 authorizing the juvenile court or the children's division to forward the fingerprints to the state
39 criminal record repository for submission to the Federal Bureau of Investigation. ~~[One set of~~
40 ~~fingerprints shall be used by the highway patrol to search the criminal history repository, one set~~
41 ~~shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal~~
42 ~~history files, and one set shall be retained by the division.]~~

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

46 5. Subject to appropriation, the total cost of fingerprinting required by this section may
47 be paid by the state, including reimbursement of persons incurring fingerprinting costs under this
48 section.

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

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

3 (1) Conduct a search for all persons over the age of seventeen in the applicant's
4 household and for any child less than seventeen years of age residing in the applicant's home who
5 the division has determined has been certified as an adult for the commission of a crime for

6 evidence of full orders of protection. The office of state courts administrator shall allow access
7 to the automated court information system by the division. The clerk of each court contacted by
8 the division shall provide the division information within ten days of a request; and

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

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

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

26 (1) No person who submits fingerprints under subsection 1 of this section or section
27 210.482 shall be required to submit additional fingerprints under this section or section 210.482
28 unless the original fingerprints retained by the division are lost or destroyed; and

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

31 3. Subject to appropriation, the total cost of fingerprinting required by this section may
32 be paid by the state, including reimbursement of persons incurring fingerprinting costs under this
33 section.

34 4. The division may make arrangements with other executive branch agencies to obtain
35 any investigative background information.

36 5. The division may promulgate rules that are necessary to implement the provisions of
37 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
38 created under the authority delegated in this section shall become effective only if it complies
39 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
40 This section and chapter 536 are nonseverable and if any of the powers vested with the general
41 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and

42 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
43 any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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

2 **(1) "Child care staff member", a child care provider; persons employed by the**
3 **child care provider for compensation, including contract employees or self-employed**
4 **individuals; individuals or volunteers whose activities involve the care or supervision of**
5 **children for a child care provider or unsupervised access to children who are cared for or**
6 **supervised by a child care provider; or individuals residing in a family child care home**
7 **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 National Sex Offender**
11 **Registry; and**

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

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

17 **b. The state sex offender registry or repository; and**

18 **c. The state-based child abuse and neglect registry and database.**

19 **2. (1) Prior to the employment or presence of a child care staff member in a family**
20 **child care home, group child care home, child care center, or license-exempt child care**
21 **facility, the child care provider shall request the results of a criminal background check**
22 **for such child care staff member from the department of health and senior services.**

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

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

34 **3. The costs of the criminal background check shall be the responsibility of the**
35 **child care staff member but may be paid or reimbursed by the child care provider at the**
36 **provider's discretion. The fees charged for the criminal background check shall not exceed**
37 **the actual cost of processing and administration.**

38 **4. Except as otherwise provided in subsection 2 of this section, upon completion of**
39 **the criminal background check, any child care staff member or prospective child care staff**
40 **member shall be ineligible for employment or presence at a family child care home, a**
41 **group child care home, a licensed child care center, or a license-exempt child care facility**
42 **if such person:**

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

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

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

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

50 **(5) Has been convicted of a felony consisting of:**

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

52 **(b) Child abuse or neglect;**

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

54 **(d) Spousal abuse;**

55 **(e) A crime involving rape or sexual assault;**

56 **(f) Kidnapping;**

57 **(g) Arson;**

58 **(h) Physical assault or battery; or**

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

61 **(6) Has been convicted of a violent misdemeanor committed as an adult against a**
62 **child, including the following crimes: child abuse, child endangerment, or sexual assault,**
63 **or of a misdemeanor involving child pornography; or**

64 **(7) Has been convicted of any similar crime in any federal, state, municipal, or**
65 **other court.**

66

67 **Adult household members seventeen years of age and older in a family child care home**
68 **shall be ineligible to maintain a presence at a family child care home if any one or more of**
69 **the provisions of this subsection applies to them.**

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

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

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

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

81 **6. (1) The department of health and senior services shall process the request for**
82 **a criminal background check for any prospective child care staff member or child care**
83 **staff member as expeditiously as possible, but not to exceed forty-five days after the date**
84 **on which the provider submitted the request.**

85 **(2) The department shall provide the results of the criminal background check to**
86 **the child care provider in a statement that indicates whether the prospective child care**
87 **staff member or child care staff member is eligible or ineligible for employment or**
88 **presence at the child care facility. The department shall not reveal to the child care**
89 **provider any disqualifying crime or other related information regarding the prospective**
90 **child care staff member or child care staff member.**

91 **(3) If such prospective child care staff member or child care staff member is**
92 **ineligible for employment or presence at the child care facility, the department shall, when**
93 **providing the results of criminal background check, include information related to each**
94 **disqualifying crime or other related information, in a report to such prospective child care**
95 **staff member or child care staff member, along with information regarding the**
96 **opportunity to appeal under subsection 7 of this section.**

97 **7. The prospective child care staff member or child care staff member may appeal**
98 **in writing to the department to challenge the accuracy or completeness of the information**
99 **contained in his or her criminal background check, or to offer information mitigating the**
100 **results and explaining why an eligibility exception should be granted. The department of**
101 **health and senior services shall attempt to verify the accuracy of the information**
102 **challenged by the individual, including making an effort to locate any missing disposition**
103 **information related to the disqualifying crime. The appeal shall be filed within ten days**
104 **from the delivery or mailing of the notice of ineligibility. The department shall make a**
105 **decision on the appeal in a timely manner.**

106 **8. The department may adopt emergency rules to implement the requirements of**
107 **this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
108 **is created under the authority delegated in this section shall become effective only if it**
109 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
110 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
111 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
112 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
113 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2018,**
114 **shall be invalid and void.**

115 **9. (1) The provisions of this section shall not apply to any child care facility, as**
116 **defined in section 210.201, maintained or operated under the exclusive control of a**
117 **religious organization, as described in subdivision (5) of subsection 1 of section 210.211,**
118 **unless such facility is a recipient of federal funds for providing care for children, except**
119 **for federal funds for those programs that meet the requirements for participation in the**
120 **Child and Adult Care Food Program under 42 U.S.C. Section 1766.**

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

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

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

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

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

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

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

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

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

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

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

36 (10) To any person who has been found guilty of acting with criminal negligence while
37 driving while intoxicated to cause the death of another person, or to any person who has been
38 convicted twice within a five-year period of violating state law, county or municipal ordinance
39 of driving while intoxicated, or any other intoxication-related traffic offense as defined in section
40 577.001, except that, after the expiration of five years from the date of conviction of the last
41 offense of violating such law or ordinance, a person who was so convicted may petition the
42 circuit court of the county in which such last conviction was rendered and the court shall review
43 the person's habits and conduct since such conviction, including the results of a criminal history
44 check as defined in section 302.010. If the court finds that the petitioner has not been found
45 guilty of, and has no pending charges for any offense related to alcohol, controlled substances,
46 or drugs and has no other alcohol-related enforcement contacts as defined in section 302.525
47 during the preceding five years, and that the petitioner's habits and conduct show such petitioner
48 to no longer pose a threat to the public safety of this state, the court shall order the director to
49 issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions
50 of sections 302.010 to 302.540;

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

53 (12) To any person who is under the age of eighteen years, if such person's parents or
54 legal guardians file a certified document with the department of revenue stating that the director
55 shall not issue such person a driver's license. Each document filed by the person's parents or
56 legal guardians shall be made upon a form furnished by the director and shall include identifying
57 information of the person for whom the parents or legal guardians are denying the driver's
58 license. The document shall also contain identifying information of the person's parents or legal
59 guardians. The document shall be certified by the parents or legal guardians to be true and
60 correct. This provision shall not apply to any person who is legally emancipated. The parents
61 or legal guardians may later file an additional document with the department of revenue which
62 reinstates the person's ability to receive a driver's license.

63 2. Any person whose license is reinstated under the provisions of subdivision (9) or (10)
64 of subsection 1 of this section shall be required to file proof with the director of revenue that any
65 motor vehicle operated by the person is equipped with a functioning, certified ignition interlock
66 device as a required condition of reinstatement. The ignition interlock device required for
67 reinstatement under this subsection and for obtaining a limited driving privilege under paragraph
68 (a) or (b) of subdivision (8) of subsection 3 of section 302.309 shall have a photo identification
69 technology feature, and a court may require a global positioning system feature for such device.
70 The ignition interlock device shall further be required to be maintained on all motor vehicles
71 operated by the person for a period of not less than six months immediately following the date
72 of reinstatement. If the monthly monitoring reports show that the ignition interlock device has
73 registered any confirmed blood alcohol concentration readings above the alcohol setpoint
74 established by the department of transportation or that the person has tampered with or
75 circumvented the ignition interlock device within the last three months of the six-month period
76 of required installation of the ignition interlock device, then the period for which the person must
77 maintain the ignition interlock device following the date of reinstatement shall be extended until
78 the person has completed three consecutive months with no violations as described in this
79 section. If the person fails to maintain such proof with the director, the license shall be
80 suspended until proof as required by this section is filed with the director.

81 3. Any person who petitions the court for reinstatement of his or her license pursuant to
82 subdivision (9) or (10) of subsection 1 of this section shall make application with the Missouri
83 state highway patrol as provided in section 43.540, and shall submit ~~two sets of~~ fingerprints
84 collected pursuant to standards as determined by the highway patrol. ~~One set of~~ Fingerprints
85 shall be used by the highway patrol to search the criminal history repository and ~~the second set~~

86 ~~shall be forwarded to~~ the Federal Bureau of Investigation for searching the federal criminal
87 history files. At the time of application, the applicant shall supply to the highway patrol the court
88 name and case number for the court where he or she has filed his or her petition for
89 reinstatement. The applicant shall pay the fee for the state criminal history check pursuant to
90 section 43.530 and pay the appropriate fee determined by the Federal Bureau of Investigation for
91 the federal criminal history record. The Missouri highway patrol, upon receipt of the results of
92 the criminal history check, shall forward a copy of the results to the circuit court designated by
93 the applicant and to the department. Notwithstanding the provisions of section 610.120, all
94 records related to any criminal history check shall be accessible and available to the director and
95 the court.

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

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

10 2. The commission shall submit ~~two sets of~~ fingerprints for any person seeking
11 employment with the commission or any person who is seeking the issuance or renewal of a
12 license issued by the commission, for the purpose of checking the person's prior criminal history
13 when the commission determines a nationwide check is warranted. The fingerprint cards and
14 any required fees shall be sent to the Missouri state highway patrol's central repository. The ~~first~~
15 ~~set of~~ fingerprints shall be used for searching the state ~~repository of~~ criminal history
16 ~~information. The second set of fingerprints~~ **repository and** shall **also** be forwarded to the
17 Federal Bureau of Investigation~~[, Identification Division,]~~ for the searching of the federal
18 criminal history files **under section 43.540**. The patrol shall notify the commission of any
19 criminal history information or lack of criminal history information discovered on the individual.
20 Notwithstanding the provisions of section 610.120, all records related to any criminal history
21 information discovered shall be accessible and available to the commission.

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

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

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

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

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

21 2. These records shall be made available only for the purposes and to the entities listed
22 in this section. A criminal justice agency receiving a request for criminal history information
23 under its control may require positive identification, to include fingerprints of the subject of the
24 record search, prior to releasing closed record information. Dissemination of closed and open
25 records from the Missouri criminal records repository shall be in accordance with section 43.509.
26 All records which are closed records shall be removed from the records of the courts,
27 administrative agencies, and law enforcement agencies which are available to the public and

28 shall be kept in separate records which are to be held confidential and, where possible, pages of
29 the public record shall be retyped or rewritten omitting those portions of the record which deal
30 with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature
31 of the record books, such record entries shall be blacked out and recopied in a confidential book.

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