

FIRST REGULAR SESSION

# HOUSE BILL NO. 104

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOLLINGSWORTH.

Pre-filed December 7, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0372L.011

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### AN ACT

To repeal sections 198.070, 210.903, 210.909, 210.915, 210.933 and 210.936, RSMo 2000, relating to caregiver qualifications and registration, and to enact in lieu thereof six new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 198.070, 210.903, 210.909, 210.915, 210.933 and 210.936, RSMo 2000, are repealed and six new sections enacted in lieu thereof, to be known as sections 198.070, 210.903, 210.909, 210.915, 210.933 and 210.936, to read as follows:

198.070. 1. When any physician, dentist, chiropractor, optometrist, podiatrist, intern, nurse, medical examiner, social worker, psychologist, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, employee in a facility, or employee of the department of social services or of the department of mental health, coroner, dentist, hospital and clinic personnel engaged in examination, other health practitioners, mental health professional, adult day care worker, probation or parole officer, law enforcement official or other person with the care of a person sixty years of age or older or an eligible adult has reasonable cause to believe that a resident of a facility has been abused or neglected, he or she shall immediately report or cause a report to be made to the department.

2. The report shall contain the name and address of the facility, the name of the resident, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any person required in subsection 1 of this section to report or cause a report to be made to the department who knowingly fails to make a report within a reasonable time after the

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

15 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

16           4. In addition to those persons required to report pursuant to subsection 1 of this section,  
17 any other person having reasonable cause to believe that a resident has been abused or neglected  
18 may report such information to the department.

19           5. Upon receipt of a report, the department shall initiate an investigation within  
20 twenty-four hours and, as soon as possible during the course of the investigation, shall notify the  
21 resident's next of kin or responsible party of the report and the investigation and further notify  
22 them whether the report was substantiated or unsubstantiated. As provided in section 565.186,  
23 RSMo, substantiated reports of elder abuse shall be promptly reported by the department to the  
24 appropriate law enforcement agency and prosecutor.

25           6. If the investigation indicates possible abuse or neglect of a resident, the investigator  
26 shall refer the complaint together with the investigator's report to the department director or the  
27 director's designee for appropriate action. If, during the investigation or at its completion, the  
28 department has reasonable cause to believe that immediate removal is necessary to protect the  
29 resident from abuse or neglect, the department or the local prosecuting attorney may, or the  
30 attorney general upon request of the department shall, file a petition for temporary care and  
31 protection of the resident in a circuit court of competent jurisdiction. The circuit court in which  
32 the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the  
33 department authority for the temporary care and protection of the resident, for a period not to  
34 exceed thirty days.

35           7. Reports shall be confidential, as provided pursuant to section 660.320, RSMo.

36           8. Anyone who makes a report pursuant to this section or who testifies in any  
37 administrative or judicial proceeding arising from the report shall be immune from any civil or  
38 criminal liability for making such a report or for testifying except for liability for perjury, unless  
39 such person acted in bad faith or with malicious purpose. It is a crime pursuant to section  
40 565.186 and 565.188, RSMo, for any person to purposely file a false report of elder abuse or  
41 neglect.

42           9. Within five working days after a report required to be made pursuant to this section  
43 is received, the person making the report shall be notified in writing of its receipt and of the  
44 initiation of the investigation.

45           10. No person who directs or exercises any authority in a facility shall evict, harass,  
46 dismiss or retaliate against a resident or employee because such resident or employee or any  
47 member of such resident's or employee's family has made a report of any violation or suspected  
48 violation of laws, ordinances or regulations applying to the facility which the resident, the  
49 resident's family or an employee has reasonable cause to believe has been committed or has  
50 occurred. Through the existing division of aging information and referral telephone contact line,

51 residents, their families and employees of a facility shall be able to obtain information about their  
52 rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to  
53 a report being made pursuant to this section.

54         11. Any person who knowingly abuses or neglects a resident of a facility shall be guilty  
55 of a class D felony.

56         12. The department shall maintain the employee disqualification list and place on the  
57 employee disqualification list:

58             (1) The names of any persons who have been finally determined by the department  
59 pursuant to section 660.315, RSMo, to have recklessly, knowingly or purposely abused or  
60 neglected a resident while employed in any facility; **and**

61             (2) **The names of any persons for whom there exists a probable cause finding of**  
62 **child abuse or neglect pursuant to section 210.110 and 210.145, RSMo.**

63         13. The timely self-reporting of incidents to the central registry by a facility shall  
64 continue to be investigated in accordance with department policy, and shall not be counted or  
65 reported by the department as a hot- line call but rather a self-reported incident. If the  
66 self-reported incident results in a regulatory violation, such incident shall be reported as a  
67 substantiated report.

210.903. 1. To protect children and the elderly in this state, and to promote family and  
2 community safety by providing information concerning family caregivers, there is hereby  
3 established within the department of health a "Family Care Safety Registry and Access Line"  
4 which shall be available by January 1, 2001.

5         2. The family care safety registry shall contain information on child-care workers' and  
6 elder-care workers' background and on child-care and elder-care providers through:

7             (1) The patrol's criminal record check system pursuant to section 43.540, RSMo,  
8 including state and national information, to the extent possible;

9             (2) Probable cause findings of abuse and neglect pursuant to sections 210.109 to  
10 210.183;

11             (3) The division of aging's employee disqualification list pursuant to section [660.315]  
12 **187.081**, RSMo;

13             (4) Foster parent licensure denials, revocations and suspensions pursuant to section  
14 210.496;

15             (5) Child-care facility license denials, revocations and suspensions pursuant to sections  
16 210.201 to 210.259; [and]

17             (6) Residential living facility and nursing home license denials, revocations, suspensions  
18 and probationary status pursuant to chapter 198, RSMo[.]; **and**

19             (7) **The employee disqualification list maintained by the department of mental**

20 **health pursuant to section 630.170, RSMo.**

210.909. 1. Upon submission of a completed registration form by a child-care worker  
2 or elder-care worker, the department, in coordination with the department of social services,  
3 shall:

4 (1) Determine if a probable cause finding of child abuse or neglect involving the  
5 applicant has been recorded pursuant to section 210.145;

6 (2) Determine if the applicant has been refused licensure or has experienced licensure  
7 suspension or revocation pursuant to section 210.496;

8 (3) Determine if the applicant has been placed on the employee disqualification list  
9 pursuant to section [660.315] **187.081**, RSMo;

10 (4) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether  
11 the applicant has any conviction, plea of guilty or nolo contendere, or a suspended execution of  
12 sentence to a felony charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568,  
13 569, 573, 575 and 578, RSMo; and

14 (5) If the background check involves a provider, determine if a facility has been refused  
15 licensure or has experienced licensure suspension, revocation or probationary status pursuant to  
16 sections 210.201 to 210.259 or chapter 198, RSMo[.]; **and**

17 **(6) Determine if the applicant has been placed on the employee disqualification list**  
18 **maintained by the department of mental health pursuant to section 630.170, RSMo.**

19 2. Upon completion of the background check described in subsection 1 of this section,  
20 the department shall include information in the registry for each registrant as to whether any  
21 felony convictions, employee disqualification listings pursuant to [section 660.315] **section**  
22 **187.081, RSMo, and section 630.170**, RSMo, probable cause findings, pleas of guilty or nolo  
23 contendere, or license denial, revocation or suspension have been documented through the  
24 records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

25 3. The department shall notify such registrant in writing of the results of the  
26 determination recorded on the registry pursuant to this section.

210.915. The department of corrections, the department of public safety, **the**  
2 **department of mental health** and the department of social services shall collaborate with the  
3 department to compare records on child-care and elder-care workers, and the records of persons  
4 with criminal convictions and the background checks pursuant to subdivisions (1) to [(6)] **(7)** of  
5 subsection 2 of section 210.903, and to enter into any interagency agreements necessary to  
6 facilitate the receipt of such information and the ongoing updating of such information. The  
7 department, in coordination with the department of social services, shall promulgate rules and  
8 regulations concerning such updating, including subsequent background reviews as listed in  
9 subsection 1 of section 210.909.

210.933. **1. Until January 1, 2002,** for any elder-care worker listed in the registry or  
2 who has submitted the registration form as required by sections 210.900 to 210.936, an elder-  
3 care provider may access the registry in lieu of the requirements established pursuant to section  
4 [660.315] **187.081**, RSMo, or to subsections 3, 4 and 5 of section [660.317] **187.084**, RSMo.

5 **2. Effective January 1, 2002, elder-care providers subject to the provisions of**  
6 **section 187.084, RSMo, shall access the registry to satisfy the employee disqualification**  
7 **provisions specified therein.**

210.936. For purposes of providing background information pursuant to sections  
2 210.900 to 210.936, reports and related information pursuant to sections [198.070] **187.020** and  
3 198.090, RSMo, sections 210.109 to 210.183 and sections [660.300 to 660.315] **187.075 to**  
4 **187.081**, RSMo, shall be deemed public records.