

FIRST REGULAR SESSION

HOUSE BILL NO. 582

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON, GOODMAN, DUSENBERG, MOORE, PHILLIPS,
JOLLY, WALKER, YOUNG, DOUGHERTY, DONNELLY (Co-sponsors), HOLAND, DAVIS (122),
CURLS, HENKE, MEINERS, BRINGER, ZWEIFEL, MAYER, LIPKE, AVERY, YATES AND PRATT.

Read 1st time February 27, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1524L.011

AN ACT

To repeal sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 210.900, 210.906, 210.909, 210.921, 210.922, 210.937, 302.272, 610.120, 610.123, 630.140, 630.167, 630.170, and 660.317, RSMo, and to enact in lieu thereof twenty-four new sections relating to background information, with an effective date for a certain section and penalty provisions.

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

Section A. Sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543,
2 210.900, 210.906, 210.909, 210.921, 210.922, 210.937, 302.272, 610.120, 610.123, 630.140,
3 630.167, 630.170, and 660.317, RSMo, are repealed and twenty-four new sections enacted in lieu
4 thereof, to be known as sections 43.500, 43.503, 43.506, 43.527, 43.530, 43.532, 43.540, 43.542,
5 43.543, 168.283, 210.482, 210.487, 210.900, 210.906, 210.909, 210.921, 210.922, 302.272,
6 610.120, 610.123, 630.140, 630.167, 630.170, and 660.317, to read as follows:

43.500. As used in sections 43.500 to [43.530] **43.543**, the following terms mean:

- 2 (1) "Central repository", the Missouri state highway patrol criminal records **and**
3 **identification** division for compiling and disseminating complete and accurate criminal history
4 records **and for compiling, maintaining, and disseminating criminal incident and arrest**
5 **reports and statistics**;
6 (2) "Committee", criminal records **and justice information** advisory committee;
7 (3) "Criminal history record information", information collected by criminal justice
8 agencies on individuals consisting of identifiable descriptions and notations of arrests,

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

9 detentions, indictments, informations, or other formal criminal charges, and any disposition
10 arising therefrom, sentencing, correctional supervision, and release;

11 (4) "Final disposition", the formal conclusion of a criminal proceeding at whatever stage
12 it occurs in the criminal justice system;

13 (5) "State offense cycle number", a [preprinted] **unique number, supplied by or**
14 **approved by the Missouri state highway patrol**, on the state **criminal** fingerprint card [which].
15 **The offense cycle number, OCN**, is used to [identify each arrest which may include multiple
16 offenses for which a person is fingerprinted. This number] **link the identity of a person,**
17 **through fingerprints, to one or many offenses for which the person is arrested or charged.**
18 **The OCN** will be [associated with] **used to track** an offense incident from the date of arrest to
19 the [date] **final disposition when** the offender exits from the criminal justice system;

20 (6) ["Without undue delay", as soon as possible but not later than thirty days after the
21 criminal history event;] **"Missouri charge code", a unique number assigned by the office of**
22 **the state courts administrator to an offense for tracking and grouping offenses. Effective**
23 **January 1, 2005, the complete charge code shall consist of the digits assigned by the office**
24 **of the state courts administrator, the two-digit national crime information center modifiers**
25 **and a single digit designating attempt, accessory, or conspiracy. The only exception to the**
26 **effective date of January 1, 2005, shall be those courts that are not using the statewide**
27 **court automation case management as provided by section 476.055, RSMo, in which case**
28 **the effective date shall be as soon thereafter as economically feasible such other courts;**

29 (7) "Administration of criminal justice", performance of any of the following activities:
30 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
31 correctional supervision, or rehabilitation of accused persons or criminal offenders. The
32 administration of criminal justice shall include criminal identification activities and the
33 collection, storage, and dissemination of criminal history record information, including
34 fingerprint searches, photographs, and other indicia of identification.

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] **within fifteen days** in the form and manner required by sections
7 43.500 to [43.530] **43.543.**

8 2. All law enforcement agencies making misdemeanor and felony arrests as determined
9 by section 43.506 shall furnish [without undue delay] **within fifteen days**, to the central
10 repository, fingerprints, charges, **appropriate charge codes**, and descriptions of all persons who

11 are arrested for such offenses on standard fingerprint forms supplied **or approved** by the
12 highway patrol **or electronically in a format and manner approved by the highway patrol**.
13 All such agencies shall also notify the central repository of all decisions not to refer such arrests
14 for prosecution. An agency making such arrests may enter into arrangements with other law
15 enforcement agencies for the purpose of furnishing [without undue delay] **within fifteen days**
16 such fingerprints, charges, **appropriate charge codes**, and descriptions to the central repository
17 upon its behalf.

18 **3.** In instances where an individual less than seventeen years of age **and not currently**
19 **certified as an adult** is taken into custody for an offense which would be [considered] a felony
20 if committed by an adult, the arresting officer shall take [one set of] fingerprints for the central
21 repository [and may take another set for inclusion in a local or regional automated fingerprint
22 identification system]. These fingerprints shall be taken on fingerprint cards [which are plainly
23 marked "juvenile card" and shall be provided by the central repository] **supplied by or**
24 **approved by the highway patrol or transmitted electronically in a format and manner**
25 **approved by the highway patrol**. The fingerprint cards shall be so constructed that [only the
26 fingerprints, unique identifying number, and the court of jurisdiction are] **the name of the**
27 **juvenile should not be** made available to the central [or local] repository. [The remainder of
28 the card which bears] The individual's [identification] **name** and the [duplicate] unique number
29 **associated with the fingerprints and other pertinent information** shall be provided to the
30 court of jurisdiction **by the agency taking the juvenile into custody**. The [appropriate portion
31 of the juvenile fingerprint card] **juvenile's fingerprints and other information** shall be
32 forwarded **within fifteen days** to the central repository and the courts [without undue delay].
33 The fingerprint information from the card shall be captured and stored in the automated
34 fingerprint identification system operated by the central repository. [The juvenile fingerprint
35 card shall be stored in a secure location, separate from all other fingerprint cards.] In the event
36 the fingerprints [from this card] are found to match **other tenprints or unsolved** latent prints
37 [searched in the automated fingerprint identification system], **the central repository shall notify**
38 **the submitting agency who shall notify** the court of jurisdiction [shall be so advised] **as per**
39 **local agreement**.

40 **4.** Upon certification of the individual as an adult, the court shall order a law
41 enforcement agency to immediately fingerprint the individual. The law enforcement
42 agency shall submit such fingerprints to the central repository within fifteen days and shall
43 furnish the offense cycle number associated with the fingerprints to the prosecuting
44 attorney or the circuit attorney of a city not within a county and to the clerk of the court
45 ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer
46 certified as an adult, the prosecuting attorney shall notify within fifteen days the central

47 repository of the change of status of the juvenile. Records of a child who has been
48 fingerprinted and photographed after being taken into custody shall be closed records as
49 provided under section 610.100, RSMo, if a petition has not been filed within thirty days
50 of the date that the child was taken into custody; and if a petition for the child has not been
51 filed within one year of the date the child was taken into custody, any records relating to
52 the child concerning the alleged offense may be expunged under the procedures in sections
53 610.122 to 610.126, RSMo.

54 [3.] 5. The prosecuting attorney of each county or the circuit attorney of a city not within
55 a county shall notify the central repository on standard forms supplied by the highway patrol **or**
56 **in a manner approved by the highway patrol** of all charges filed, including all those added
57 subsequent to the filing of a criminal court case, and whether charges were not filed in criminal
58 cases for which the central repository has a record of an arrest. All records forwarded to the
59 central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530
60 shall include the state offense cycle number of the offense, **the charge code for the offense**, and
61 the originating agency identifier number of the reporting prosecutor, using such numbers as
62 assigned by the highway patrol.

63 [4.] 6. The clerk of the courts of each county or city not within a county shall furnish the
64 central repository, on standard forms supplied by the highway patrol **or in a manner approved**
65 **by the highway patrol**, with all final dispositions of [criminal] cases for which the central
66 repository has a record of an arrest or a record of fingerprints reported pursuant to [subsections
67 6 and 7 of this section] **sections 43.500 to 43.506**. Such information shall include, for each
68 charge:

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

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

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

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

79 [5.] 7. The clerk of the courts of each county or city not within a county shall furnish,
80 **to the department of corrections or department of mental health**, court judgment and
81 sentence documents and the state offense cycle number **and the charge code** of the offense[,]
82 which [result] **resulted** in the commitment or assignment of an offender[,] to the jurisdiction of

83 the department of corrections or the department of mental health if the person is committed
84 pursuant to chapter 552, RSMo. This information shall be reported to the department of
85 corrections or the department of mental health at the time of commitment or assignment. If the
86 offender was already in the custody of the department of corrections or the department of mental
87 health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent
88 conviction to the appropriate department by certified mail, return receipt requested **or in a**
89 **manner and format mutually agreed to**, within [ten] **fifteen** days of such disposition.

90 [6. After the court pronounces sentence, including an order of supervision or an order
91 of probation granted for any offense which is required by statute to be collected, maintained, or
92 disseminated by the central repository, or commits a person to the department of mental health
93 pursuant to chapter 552, RSMo,] **8. Information and fingerprints, and other indicia**
94 **forwarded to the central repository, normally obtained from a person at the time of the**
95 **arrest, may be obtained at any time the subject is in the criminal justice system or**
96 **committed to the department of mental health. A law enforcement agency or the**
97 **department of corrections may fingerprint the person and obtain the necessary**
98 **information at any time the subject is in custody. If at the time of disposition, the**
99 **defendant has not been fingerprinted for an offense in which a fingerprint is required by**
100 **statute to be collected, maintained, or disseminated by the central repository, the court shall**
101 **order a law enforcement agency to fingerprint immediately [all persons appearing before the**
102 **court to be sentenced or committed who have not previously been fingerprinted for the same**
103 **case] the defendant. The law enforcement agency shall submit such fingerprints to the central**
104 **repository [without undue delay] within fifteen days and shall furnish the offense cycle**
105 **number associated with the fingerprints to the prosecuting attorney or the circuit attorney**
106 **of a city not within a county and to the court clerk of the court ordering the subject**
107 **fingerprinted.**

108 [7.] **9.** The department of corrections and the department of mental health shall furnish
109 the central repository with all information concerning the receipt, escape, execution, death,
110 release, pardon, parole, commutation of sentence, granting of executive clemency, **legal name**
111 **change**, or discharge of an individual who has been sentenced to that department's custody for
112 any offenses which are mandated by law to be collected, maintained or disseminated by the
113 central repository. All records forwarded to the central repository by the department as required
114 by sections 43.500 to 43.530 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.

43.506. 1. Those offenses considered reportable for the purposes of sections 43.500 to
2 [43.530] **43.543** include all felonies and serious or aggravated misdemeanors consistent with the

3 reporting standards established by the National Crime Information Center, Federal Bureau of
4 Investigation, for the Federal Interstate Identification Index System. In addition, all cases arising
5 pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense
6 involving a child under seventeen years of age and the court imposes a suspended imposition of
7 sentence shall be reported. The following types of offenses shall not be considered reportable
8 for the purposes of sections 57.403, RSMo, 43.500 to 43.530, and 595.200 to 595.218, RSMo:
9 disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific
10 charges of suspicion or investigation, and general traffic violations and all misdemeanor
11 violations of the state wildlife code. All violations for driving under the influence of drugs or
12 alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted
13 in the Missouri charge code manual established in section 43.512. All information collected
14 pursuant to sections 43.500 to 43.530 shall be available only as set forth in section 610.120,
15 RSMo.

16 2. [With the exception of the manual reporting of arrests and fingerprints by law
17 enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding
18 subsections 2 to 7 of section 43.503,] Law enforcement agencies, court clerks, prosecutors and
19 custody agencies may report required information by electronic medium either directly to the
20 central repository or indirectly to the central repository via other criminal justice agency
21 computer systems in the state with the approval of the [advisory committee] **highway patrol**.

22 3. In addition to the repository of fingerprint records for individual offenders **and**
23 **applicants**, the central repository of criminal history **and identification** records for the state
24 shall maintain a repository of latent prints, **palm prints and other prints submitted to the**
25 **repository**.

43.527. For purposes of sections 43.500 to 43.530 all [federal and nonstate of Missouri]
2 agencies **and persons** shall pay for criminal records checks, fingerprint searches, and any of the
3 information as defined in subdivision (3) of section 43.500, when such information is not related
4 to the administration of criminal justice. **There shall be no charge for information supplied**
5 **to criminal justice agencies for the administration of criminal justice. There shall be no**
6 **charge for information requested by Missouri state agencies screening their state**
7 **employees or applicants for state employment.** For purposes of sections 43.500 to [43.530]
8 **43.543** the administration of criminal justice is defined in subdivision (7) of section 43.500 **and**
9 **shall be available only as set forth in section 610.120, RSMo.**

43.530. For each request **requiring the payment of a fee** received by the central
2 repository, [as defined in subdivision (1) of section 43.500,] the requesting entity shall pay a fee
3 of not more than five dollars per request for criminal history record information **not based on**
4 **a fingerprint search** and pay a fee of not more than fourteen dollars per request for

5 [classification and search of fingerprints] **criminal history record information based on a**
6 **fingerprint search.** Each such request shall be limited to check and search on one individual.
7 Each request shall be accompanied by a check, warrant, voucher, or money order payable to the
8 state of Missouri-criminal record system **or payment shall be made in a manner approved by**
9 **the highway patrol.** There is hereby established by the treasurer of the state of Missouri a fund
10 to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section
11 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not
12 totally expended annually for the purposes set forth in [section 43.527] **sections 43.500 to**
13 **43.543,** the unexpended moneys in such fund shall remain in the fund and the balance shall be
14 kept in the fund to accumulate from year to year.

43.532. 1. Criminal history and identification records obtained from the central
2 **repository shall be used solely for the purpose for which they were obtained. The subject**
3 **of the record shall be afforded the opportunity to challenge the correctness, accuracy, or**
4 **completeness of a criminal history record.**

5 **2. No person shall obtain criminal history record information from the central**
6 **repository under false pretenses or engage in the practice of collecting, assembling, or**
7 **disseminating criminal history record information other than to provide the information**
8 **to the original requester for its intended purpose. Any person who discloses information**
9 **beyond the scope allowed in this section 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;**

5 (2) **"Missouri criminal record review", a [request to the highway patrol for information**
6 **concerning any criminal history record for a felony or misdemeanor and any offense for which**
7 **the person has registered pursuant to sections 589.400 to 589.425, RSMo] review of the**
8 **criminal history records maintained by the Missouri state highway patrol in the Missouri**
9 **criminal records repository;**

10 (3) **"National criminal record review", a review of the criminal history records**
11 **maintained by the Federal Bureau of Investigation;**

12 (4) **"Care", the provision of care, treatment, education, training, instruction,**
13 **supervision, or recreation;**

14 [(2)] (5) **"Patient or resident", a person who by reason of [aging] age, illness, disease or**
15 **physical or mental infirmity receives or requires care or services furnished by a provider, as**
16 **defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or**
17 **accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding**

18 twenty-four consecutive hours;

19 [(3) "Patrol", the Missouri state highway patrol;

20 (4)] (6) "Provider", [any licensed day care home, licensed day care center, licensed
21 child-placing agency, licensed residential care facility for children, licensed group home, licensed
22 foster family group home, licensed foster family home or any operator licensed pursuant to
23 chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent
24 placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo] **a**
25 **person who:**

26 (a) **Has or may have unsupervised access to children, the elderly, or persons with**
27 **disabilities; and**

28 (b) **Is employed by or seeks employment with a qualified entity; or**

29 (c) **Volunteers or seeks to volunteer with a qualified entity; or**

30 (d) **Owns or operates a qualified entity;**

31 (7) **"Qualified entity", a person, business, or organization, whether public or**
32 **private, for profit, not-for-profit, or voluntary, that provides care, placement, or**
33 **educational services for children, the elderly, or persons with disabilities as patients or**
34 **residents, including a business or organization that licenses or certifies others to provide**
35 **care or placement services;**

36 [(5)] (8) "Youth services agency", any public or private agency, school, or association
37 which provides programs, care or treatment for or which exercises supervision over minors.

38 [2. Upon receipt of a written request from a private investigatory agency, a youth service
39 agency or a provider, with the written consent of the applicant, the highway patrol shall conduct
40 a criminal record review of an applicant for a paid or voluntary position with the agency or
41 provider if such position would place the applicant in contact with minors, patients or residents.

42 3. Any request for information made pursuant to the provisions of this section shall be
43 on a form provided by the highway patrol and shall be signed by the person who is the subject
44 of the request.

45 4. The patrol shall respond in writing to the youth service agency or provider making a
46 request for information pursuant to this section and shall inform such youth service agency or
47 provider of the address and offense for which the offender registered pursuant to sections
48 589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any
49 other offenses contained in the criminal record review. Notwithstanding any other provision of
50 law to the contrary, the youth service agency or provider making such request shall have access
51 to all records of arrests resulting in an adjudication where the applicant was found guilty or
52 entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo,
53 sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for

54 offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the
55 period of any probation imposed by the sentencing court.

56 5. Any information received by a provider or a youth services agency pursuant to this
57 section shall be used solely for the provider's or youth service agency's internal purposes in
58 determining the suitability of an applicant or volunteer. The information shall be confidential
59 and any person who discloses the information beyond the scope allowed in this section is guilty
60 of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services
61 agency of the requirements of this subsection and the penalties provided in this subsection at the
62 time it releases any information pursuant to this section.]

63 **2. A qualified entity may obtain a Missouri criminal record review of a provider**
64 **from the highway patrol by furnishing information on forms and in the manner approved**
65 **by the highway patrol.**

66 **3. A qualified entity may request a Missouri criminal record review and a national**
67 **criminal record review of a provider through an authorized state agency. No authorized**
68 **state agency is required by this section to process Missouri or national criminal record**
69 **reviews for a qualified entity, however, if an authorized state agency agrees to process**
70 **Missouri and national criminal record reviews for a qualified entity, the qualified entity**
71 **shall provide to the authorized state agency on forms and in a manner approved by the**
72 **highway patrol the following:**

73 **(1) Two sets of fingerprints of the provider;**

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

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

76 **(b) Whether the provider has been convicted of or has pled guilty to a crime which**
77 **includes a suspended imposition of sentence;**

78 **(c) If the provider has been convicted of or has pled guilty to a crime, a description**
79 **of the crime, and the particulars of the conviction or plea;**

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

81 **(e) The right of the provider to review the report received by the qualified entity;**

82 **and**

83 **(f) The right of the provider to challenge the accuracy of the report. If the**
84 **challenge is to the accuracy of the criminal record review, the challenge shall be made to**
85 **the highway patrol.**

86 **4. The authorized state agency shall forward the required forms and fees to the**
87 **highway patrol. The results of the record review shall be forwarded to the authorized state**
88 **agency who will notify the qualified entity as to the suitability of the provider. The**
89 **authorized state agency may assess a fee to the qualified entity to cover the cost of handling**

90 the criminal record review and may establish an account solely for the collection and
91 dissemination of fees associated with the criminal record reviews.

92 **5. Any information received by an authorized state agency or a qualified entity**
93 **pursuant to the provisions of this section shall be used solely for internal purposes in**
94 **determining the suitability of a provider. The dissemination of criminal history**
95 **information from the Federal Bureau of Investigation beyond the authorized state agency**
96 **or related governmental entity is prohibited. All criminal record check information shall**
97 **be confidential and any person who discloses the information beyond the scope allowed is**
98 **guilty of a class A misdemeanor.**

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

43.542. In order to facilitate the authorized interstate exchange of criminal history
2 **information for noncriminal justice purposes to adopt the National Crime Prevention and**
3 **Privacy Compact, 42 U.S.C. 14616, the legislature approves and adopts the compact. The**
4 **chief administrator of the state's criminal history records repository shall execute the**
5 **compact on behalf of the state of Missouri.**

 43.543. Any state agency listed in section 621.045, RSMo, [or any state agency which
2 provides programs, care or treatment for or which exercises supervision over minors shall submit
3 two sets of fingerprints for any person seeking employment with such agency or provider or for
4 any person who is seeking the issuance or renewal of a license, permit or certificate of
5 registration or authority from such agency, for the purpose of checking the person's prior criminal
6 history when the state agency determines a nationwide check is warranted. The fingerprint cards
7 and any required fees shall be sent to the Missouri state highway patrol's criminal records
8 division. The first set of fingerprints shall be used for searching the state repository of criminal
9 history information. If no identification is made, the second set of fingerprints shall be
10 forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of
11 the federal criminal history files. The patrol shall notify the submitting state agency of any
12 criminal history information or lack of criminal history information discovered on the
13 individual.] **the division of professional registration of the department of economic**
14 **development, the department of social services, the supreme court of Missouri, the**
15 **department of elementary and secondary education, the Missouri lottery, and the Missouri**
16 **gaming commission, which screen persons seeking employment with such agencies or**
17 **issuance or renewal of a license, permit, certificate, or registration of authority from such**
18 **agencies; or any state agency or committee which is authorized by state statute or executive**
19 **order to screen applicants or candidates seeking or considered for employment,**
20 **assignment, or appointment to a position within state government; or the Missouri peace**

21 officers standards and training, POST, commission which screens persons, not employed
22 by a criminal justice agency, who seek enrollment or access into a certified POST training
23 academy police school, or persons seeking a permit to purchase or possess a firearm for
24 employment as a watchman, security personnel, or private investigator; or law
25 enforcement agencies which screen persons seeking issuance or renewal of a license,
26 permit, certificate, or registration to purchase or possess a firearm shall submit two sets
27 of fingerprints to the Missouri state highway patrol, Missouri criminal records repository,
28 for the purpose of checking the person's criminal history. The first set of fingerprints shall
29 be used to search the Missouri criminal records repository and the second set shall be
30 submitted to the Federal Bureau of Investigation to be used for searching the federal
31 criminal history files if necessary. The fingerprints shall be submitted on forms and in the
32 manner prescribed by the Missouri state highway patrol. Fees assessed for the searches
33 shall be paid in the manner prescribed by the Missouri state highway patrol.
34 Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal
35 history information discovered shall be accessible and available to the state agency making the
36 record request.

168.283. 1. No school employee shall have unsupervised contact with pupils until
2 such employee has submitted two sets of fingerprints to the central repository for a
3 Missouri criminal record review and a national criminal record review. This includes, but
4 is not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries,
5 custodians, cooks, nurses, and bus drivers. The results of the background check shall be
6 sent to the employing school district.

7 2. In order to facilitate the criminal history background check on any person
8 currently employed or seeking employment, such person shall submit two sets of
9 fingerprints collected pursuant to standards determined by the Missouri state highway
10 patrol. Such fingerprints shall be used by the Missouri state highway patrol in order to
11 search the state repository of criminal history information and shall also be forwarded to
12 the Federal Bureau of Investigation for searching the federal criminal history files.

13 3. The current or prospective employee shall pay the fee for the state criminal
14 history information pursuant to section 43.530, RSMo, and pay the appropriate fee
15 determined by the Federal Bureau of Investigation for the federal criminal history record.
16 The department shall distribute the fees collected for the state and federal criminal
17 histories to the Missouri state highway patrol.

18 4. The current or prospective employee may be compensated by the employing
19 school district should the school district policy provide for reimbursement intended for
20 state and federal criminal history information pursuant to section 43.500, RSMo.

21 **5. If as a result of the criminal history background check mandated under this**
22 **section it is determined that the holder of a certificate issued pursuant to section 168.021**
23 **has been charged with or pled guilty or nolo contendere to or been found guilty of a crime**
24 **under the laws of the state of Missouri, of any other state, of the United States, or any other**
25 **country, whether or not a sentence is or was imposed, such information shall be reported**
26 **to the department of elementary and secondary education.**

27 **6. Any school official making a report to the department of elementary and**
28 **secondary education in conformity with this section shall not be civilly liable for such**
29 **action.**

30 **7. The state board of education may promulgate rules for criminal history**
31 **background checks made pursuant to this section. No rule or portion of a rule**
32 **promulgated pursuant to this section shall take effect unless such rule has been**
33 **promulgated pursuant to chapter 536, RSMo.**

210.482. 1. When the emergency placement of a child in a private home is
2 **necessary due to the unexpected absence of the child's parents, legal guardian, or**
3 **custodian, the juvenile court or division of family services may request that a local or state**
4 **law enforcement agency or juvenile officer immediately conduct a name-based criminal**
5 **history record check to include orders of protection and outstanding warrants of each**
6 **individual age eighteen or over, in the home, by using the Missouri uniform law**
7 **enforcement system and national crime information center to access the interstate**
8 **identification index maintained by the Federal Bureau of Investigation.**

9 **2. If a name-based search has been conducted pursuant to subsection 1 of this**
10 **section, within five business days after the emergency placement of the child in the private**
11 **home, if the private home has not previously been approved as a foster adoptive home, all**
12 **individuals eighteen years of age or older residing in the home shall report to a local law**
13 **enforcement agency for the purpose of providing two sets of fingerprints each. The**
14 **fingerprints and accompanying fees, pursuant to section 43.530, RSMo, shall be forwarded**
15 **to the state criminal records repository for submission to the Federal Bureau of**
16 **Investigation. Results of the checks shall be provided to the juvenile court or division of**
17 **family services' office requesting such information. Any child placed in emergency**
18 **placement in a private home shall be removed immediately if any individual in the home**
19 **failed to provide fingerprints after being requested to do so, unless the individual refusing**
20 **to provide fingerprints ceases residence in the private home.**

21 **3. When the placement of a child is denied as a result of a name based criminal**
22 **history check and the denial is contested, an individual shall have the right to challenge**
23 **their criminal history as provided by section 43.532, RSMo.**

24 **4. As used in this section, "emergency placement" refers to those limited instances**
25 **when the juvenile court or division of family services is placing a child in the home of**
26 **private individuals, including neighbors, friends, or relatives, as a result of a sudden**
27 **unavailability of the child's primary caretaker.**

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

3 **(1) Conduct a search for any adult in the applicant's household for evidence of ex**
4 **parte or full orders of protection. The office of state courts administrator shall allow**
5 **access to the automated court information system by the division. The clerk of each court**
6 **contacted by the division shall provide the division information within ten days of a**
7 **request; and**

8 **(2) Conduct a criminal background fingerprint check, including Missouri criminal**
9 **record information and federal criminal database information. The Missouri state**
10 **highway patrol shall assist the division and provide the criminal fingerprint background**
11 **information, upon request.**

12 **2. The division may make arrangements with other executive branch agencies to**
13 **obtain any investigative background information.**

14 **3. The division may promulgate rules and regulations that are necessary to**
15 **implement the provisions of this section. No rule or portion of a rule promulgated**
16 **pursuant to the authority of this section shall become effective unless it has been**
17 **promulgated pursuant to the provisions of chapter 536, RSMo.**

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the
2 **"Family Care Safety Act".**

3 **2. As used in sections 210.900 to 210.936, the following terms shall mean:**

4 **(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed**
5 **or license-exempt child-care center, child-placing agency, residential care facility for children,**
6 **group home, foster family group home, foster family home, employment agency that refers a**
7 **child-care worker to parents or guardians as defined in section 289.005, RSMo. The term**
8 **"child-care provider" does not include summer camps or voluntary associations designed**
9 **primarily for recreational or educational purposes;**

10 **(2) "Child-care worker", any person who is employed by a child-care provider, or**
11 **receives state or federal funds, either by direct payment, reimbursement or voucher payment, as**
12 **remuneration for child-care services;**

13 **(3) "Department", the department of health and senior services;**

14 **(4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, or any**
15 **person, corporation, or association who provides in-home services under contract with the**

16 division of aging, or any employer of nurses or nursing assistants of home health agencies
17 licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants employed by
18 a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a hospital for which
19 subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

20 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who
21 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as
22 remuneration for elder-care services;

23 (6) **"Registration-exempt individual", any person not required to register with the**
24 **family care safety registry in accordance with section 210.906, who provides prevention,**
25 **evaluation, care, treatment, rehabilitation, or related services to minors, patients, or**
26 **residents;**

27 (7) **"Human services provider", any provider under contract with, certified or**
28 **licensed by a state agency that employs registration-exempt workers through a direct**
29 **employer-employee relationship or who performs duties in a voluntary capacity under the**
30 **authority and direction of the human services provider;**

31 (8) **"Designated release", release of background screening information by the**
32 **family care safety registry based upon a request made by a human services provider that**
33 **contains a release of information signed by the registration-exempt worker that shall not**
34 **result in registration with the family care safety registry and is limited to a one-time-only**
35 **response;**

36 (9) "Patrol", the Missouri state highway patrol;

37 [(7)] (10) "Employer", any child-care provider, elder-care provider, or personal-care
38 provider as defined in this section;

39 [(8)] (11) "Personal-care attendant" or "personal-care worker", a person who performs
40 routine services or supports necessary for a person with a physical or mental disability to enter
41 and maintain employment or to live independently;

42 [(9)] (12) "Personal-care provider", any person, corporation, or association who provides
43 personal-care services or supports under contract with the department of mental health, the
44 division of aging, the department of health and senior services or the department of elementary
45 and secondary education;

46 [(10)] (13) "Related child care", child care provided only to a child or children by such
47 child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a
48 residence separate from the child or children;

49 [(11)] (14) "Related elder care", care provided only to an elder by an adult child, a
50 spouse, a grandchild, a great-grandchild or a sibling of such elder.

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1,

2 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration
3 form provided by the department. The department shall make such forms available no later than
4 January 1, 2001, and may, by rule, determine the specific content of such form, but every form
5 shall:

6 (1) Request the valid Social Security number of the applicant;

7 (2) Include information on the person's right to appeal the information contained in the
8 registry pursuant to section 210.912;

9 (3) Contain the signed consent of the applicant for the background checks required
10 pursuant to this section; and

11 (4) Contain the signed consent for the release of information contained in the
12 background check for employment purposes only.

13 **2. Human services providers may request a background screening on registration-**
14 **exempt workers by submitting a request using a form developed by the department for the**
15 **purpose of a designated release. The department shall make such forms available no later**
16 **than January 1, 2004, and may by rule, determine the specific content of such forms, but**
17 **every form shall:**

18 (1) Request the valid Social Security number of the applicant;

19 (2) Include information on the person's right to appeal the information contained
20 in the registry pursuant to section 210.912;

21 (3) Contain the signed consent of the applicant for the background checks required
22 pursuant to this section; and

23 (4) Contain the signed consent for the release of information contained in the
24 background check for a one-time release by the family care safety registry to the human
25 services provider.

26 **3.** Every child-care worker or elder-care worker hired on or after January 1, 2001, and
27 every personal-care worker hired on or after January 1, 2002, shall complete a registration form
28 within fifteen days of the beginning of such person's employment. Any person employed as a
29 child-care, elder-care or personal-care worker who fails to submit a completed registration form
30 to the department of health and senior services as required by sections 210.900 to 210.936
31 without good cause, as determined by the department, is guilty of a class B misdemeanor.

32 [3.] **4.** The costs of the criminal background check may be paid by the individual
33 applicant, or by the provider if the applicant is so employed, or for those applicants receiving
34 public assistance, by the state through the terms of the self-sufficiency pact pursuant to section
35 208.325, RSMo. Any moneys remitted to the patrol for the costs of the criminal background
36 check shall be deposited to the credit of the criminal record system fund as required by section
37 43.530, RSMo.

38 [4.] 5. Any person licensed pursuant to sections 210.481 to 210.565 shall be
39 automatically registered in the family care safety registry at no additional cost other than the
40 costs required pursuant to sections 210.481 to 210.565.

41 [5.] 6. Any person not required to register pursuant to the provisions of sections 210.900
42 to 210.936 may also be included in the registry if such person voluntarily applies to the
43 department for registration and meets the requirements of this section and section 210.909,
44 including submitting to the background checks in subsection 1 of section 210.909.

45 [6.] 7. The provisions of sections 210.900 to 210.936 shall not extend to related child
46 care, related elder care or related personal care.

210.909. 1. Upon submission of a completed registration form by a child-care worker,
2 elder-care worker or personal-care attendant, **or completed designated-release form by a**
3 **human services provider**, the department shall:

4 (1) Determine if a probable cause finding of child abuse or neglect involving the
5 applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003,
6 if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant
7 to section 570.145, RSMo;

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

10 (3) Determine if the applicant has been placed on the employee disqualification list
11 pursuant to section 660.315, RSMo;

12 (4) As of January 1, 2003, determine if the applicant is listed on the department of
13 mental health's employee disqualification registry;

14 (5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether
15 the applicant has any [conviction, plea of guilty or nolo contendere, or a suspended execution
16 of sentence to a charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569,
17 573, 575 and 578, RSMo] **criminal history record for a felony or misdemeanor or any**
18 **offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo;**
19 and

20 (6) If the background check involves a provider, determine if a facility has been refused
21 licensure or has experienced licensure suspension, revocation or probationary status pursuant to
22 sections 210.201 to 210.259 or chapter 198, RSMo.

23 2. Upon completion of the background check described in subsection 1 of this section,
24 the department shall include information in the registry for each registrant as to whether any
25 convictions, employee disqualification listings, registry listings, probable cause findings, pleas
26 of guilty or nolo contendere, or license denial, revocation or suspension have been documented
27 through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

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

210.921. 1. The department shall not provide any registry information pursuant to this
2 section unless the department obtains the name and address of the person calling, and, **with the**
3 **exception of a designated release**, determines that the inquiry is for employment purposes only.
4 For purposes of sections 210.900 to 210.936, "employment purposes" includes direct
5 employer-employee relationships, prospective employer-employee relationships, and screening
6 and interviewing of persons or facilities by those persons contemplating the placement of an
7 individual in a child-care, elder-care or personal-care setting. **Designated release of**
8 **background screening information shall be allowed for purposes other than employer-**
9 **employee relationships with the written permission of the applicant for a one-time release**
10 **of information.** Disclosure of background information concerning a given applicant recorded
11 by the department in the registry shall be limited to:

12 (1) Confirming whether the individual is listed in the registry; and

13 (2) Indicating whether the individual has been listed or named in any of the background
14 checks listed in subsection 2 of section 210.903. If such individual has been so listed, the
15 department of health and senior services shall only disclose the name of the background check
16 in which the individual has been identified. With the exception of any agency licensed by the
17 state to provide child care, elder care or personal care, **and human services providers** which
18 shall receive specific information immediately if requested, any specific information related to
19 such background check shall only be disclosed after the department has received a signed request
20 from the person calling, with the person's name, address and reason for requesting the
21 information.

22 2. Any person requesting registry information shall be informed that the registry
23 information provided pursuant to this section consists only of information relative to the state
24 of Missouri and does not include information from other states or information that may be
25 available from other states.

26 3. Any person who uses the information obtained from the registry for any purpose other
27 than that specifically provided for in sections 210.900 to 210.936 is guilty of a class [B] A
28 misdemeanor.

29 4. When any registry information is disclosed pursuant to subdivision (2) of subsection
30 1 of this section, the department shall notify the registrant of the name and address of the person
31 making the inquiry.

32 5. The department of health and senior services staff providing information pursuant to
33 sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that
34 otherwise might result by reason of such actions; provided, however, any department of health

35 and senior services staff person who releases registry information in bad faith or with ill intent
36 shall not have immunity from any liability, civil or criminal. Any such person shall have the
37 same immunity with respect to participation in any judicial proceeding resulting from the release
38 of registry information. The department is prohibited from selling the registry or any portion of
39 the registry for any purpose including "employment purposes" as defined in subsection 1 of this
40 section.

210.922. The department **of health and senior services, department of mental health,**
2 **and department of social services** may use the registry information to carry out the duties
3 assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198, **630**, and
4 660, RSMo.

302.272. 1. No person shall operate any school bus owned by or under contract with a
2 public school or the state board of education unless such driver has qualified for a school bus
3 permit under this section and complied with the pertinent rules and regulations of the department
4 of revenue. A school bus permit shall be issued to any applicant who meets the following
5 qualifications:

6 (1) The applicant has a valid state license issued under this chapter or has a license valid
7 in any other state;

8 (2) The applicant is at least twenty-one years of age;

9 (3) The applicant has passed a medical examination, including vision and hearing tests,
10 as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the
11 applicant shall pass the medical examination annually to maintain or renew the permit; and

12 (4) The applicant has successfully passed an examination for the operation of a school
13 bus as prescribed by the director of revenue. The examination shall include, but need not be
14 limited to, a written skills examination of applicable laws, rules and procedures, and a driving
15 test in the type of vehicle to be operated. The test shall be completed in the appropriate class of
16 vehicle to be driven. For purposes of this section classes of school buses shall comply with the
17 Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

18 2. Except as otherwise provided in this section, a school bus permit shall be renewed
19 every three years and shall require the applicant to provide a medical examination as specified
20 in subdivision (3) of subsection 1 of this section and to successfully pass a written skills
21 examination as prescribed by the director of revenue in consultation with the department of
22 elementary and secondary education. If the applicant is at least seventy years of age, the school
23 bus permit shall be renewed annually, and the applicant shall successfully pass the examination
24 prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed
25 permit. The director may waive the written skills examination on renewal of a school bus permit
26 upon verification of the applicant's successful completion within the preceding twelve months

27 of a training program which has been approved by the director in consultation with the
28 department of elementary and secondary education and which is at least eight hours in duration
29 with special instruction in school bus driving.

30 3. The fee for a new or renewed school bus permit shall be three dollars.

31 4. Upon the applicant's completion of the requirements of subsections 1, 2 and 3 of this
32 section, the director of revenue shall issue a temporary school bus permit to the applicant until
33 such time as a permanent school bus permit shall be issued following the record clearance as
34 provided in subsection 6 of this section.

35 5. The director of revenue, to the best of the director's knowledge, shall not issue or
36 renew a school bus permit to any applicant:

37 (1) Whose driving record shows that such applicant's privilege to operate a motor vehicle
38 has been suspended, revoked or disqualified or whose driving record shows a history of moving
39 vehicle violations;

40 (2) Who has pled guilty to or been found guilty of any felony or misdemeanor for
41 violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense
42 against the person as defined by chapter 565, RSMo, or any other offense against the person
43 involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for
44 a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution
45 as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the
46 family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense
47 as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related
48 offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal
49 or other court of similar jurisdiction of which the director has knowledge;

50 (3) Who has pled guilty to or been found guilty of any felony involving robbery, arson,
51 burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any
52 federal, state, municipal or other court of similar jurisdiction within the preceding ten years of
53 which the director has knowledge.

54 6. The [department of social services or the] Missouri highway patrol[, whichever has
55 access to applicable records,] shall provide a record of clearance or denial of clearance for any
56 applicant for a school bus permit for the convictions specified in subdivisions (2) and (3) of
57 subsection 5 of this section. The Missouri highway patrol in providing the record of clearance
58 or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of
59 Investigation any information which might aid the Missouri highway patrol in providing such
60 record of clearance or denial of clearance. The [department of social services or the] Missouri
61 highway patrol shall provide the record of clearance or denial of clearance within thirty days of
62 the date requested, relying on information available at that time, except that [the department of

63 social services or] the Missouri highway patrol shall provide any information subsequently
64 discovered to the department of revenue.

65 **7. In order to facilitate the record of clearance as authorized in subsection 6 of this**
66 **section, an applicant for a school bus permit shall submit two sets of fingerprints collected**
67 **pursuant to standards determined by the Missouri highway patrol. Such fingerprints shall**
68 **be used by the Missouri highway patrol in order to search the state repository of criminal**
69 **history information and shall also be forwarded to the Federal Bureau of Investigation for**
70 **searching the federal criminal history files.**

71 **8. The applicant shall pay the fee for the state criminal history information**
72 **pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal**
73 **Bureau of Investigation for the federal criminal history record when he or she applies for**
74 **the school bus permit pursuant to this section. The director shall distribute the fees**
75 **collected for the state and federal criminal histories to the Missouri highway patrol.**

76 **9. The director may adopt any rules and regulations necessary to carry out the**
77 **provisions of this section.**

610.120. 1. Records required to be closed shall not be destroyed; they shall be
2 inaccessible to the general public and to all persons other than the defendant except as provided
3 in this section and section 43.507, RSMo. [They shall be available to] **The closed records shall**
4 **be available to: criminal justice agencies for the administration of criminal justice**
5 **pursuant to section 43.500, RSMo, criminal justice employment, screening persons with**
6 **access to criminal justice facilities, procedures, and sensitive information; to law**
7 **enforcement agencies for issuance or renewal of a license, permit, certification, or**
8 **registration of authority from such agency including but not limited to watchmen, security**
9 **personnel, private investigators, and persons seeking permits to purchase or possess a**
10 **firearm; those agencies authorized by section 43.543, RSMo, to submit and when**
11 **submitting fingerprints to the central repository; the sentencing advisory commission created**
12 **in section 558.019, RSMo, for the purpose of studying sentencing practices[, and only to courts,**
13 **law enforcement agencies, child care agencies,] in accordance with section 43.507, RSMo; to**
14 **qualified entities for the purpose of screening providers defined in section 43.540, RSMo;**
15 **the department of revenue for [driving record purposes, facilities as defined in section 198.006,**
16 **RSMo, in-home services provider agencies as defined in section 660.250, RSMo,] driver license**
17 **administration; the division of workers' compensation for the purposes of determining**
18 **eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo,**
19 **department of health and senior services for the purpose of licensing and regulating**
20 **facilities and regulating in-home services provider agencies and federal agencies for purposes**
21 **of [prosecution, sentencing, parole consideration,] criminal justice administration, criminal**

22 justice employment, child, **elderly, or disabled** care [employment, nursing home employment],
23 and [to federal agencies] for such investigative purposes as authorized by law or presidential
24 executive order.

25 **2.** These records shall be made available **only** for the [above] purposes [regardless of any
26 previous statutory provision which had closed such records to certain agencies or for certain
27 purposes.] **and to the entities listed in this section. A criminal justice agency receiving a**
28 **request for criminal history information under its control may require positive**
29 **identification, to include fingerprints of the subject of the record search, prior to releasing**
30 **closed record information. Dissemination of closed and open records from the Missouri**
31 **criminal records repository shall be in accordance with section 43.509, RSMo.** All records
32 which are closed records shall be removed from the records of the courts, administrative
33 agencies, and law enforcement agencies which are available to the public and shall be kept in
34 separate records which are to be held confidential and, where possible, pages of the public record
35 shall be retyped or rewritten omitting those portions of the record which deal with the defendant's
36 case. If retyping or rewriting is not feasible because of the permanent nature of the record books,
37 such record entries shall be blacked out and recopied in a confidential book.

38 [2. As used in this section, the term "child care" includes providers and youth services
39 agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school
40 teachers, and elementary and secondary school bus drivers, whether such drivers are employed
41 by a school or an entity which has contracted with the school to provide transportation services.]

610.123. 1. Any person who wishes to have a record of arrest expunged pursuant to
2 section 610.122 may file a verified petition for expungement in the civil division of the circuit
3 court in the county of the arrest as provided in subsection 4 of this section. The petition shall
4 include the following information or shall be dismissed if the information is not given:

- 5 (1) The petitioner's:
6 (a) Full name;
7 (b) Sex;
8 (c) Race;
9 (d) Date of birth;
10 (e) Driver's license number;
11 (f) Social Security number; and
12 (g) Address at the time of the arrest;
13 (2) The offense charged against the petitioner;
14 (3) The date the petitioner was arrested;
15 (4) The name of the county where the petitioner was arrested and if the arrest occurred
16 in a municipality, the name of the municipality;

17 (5) The name of the agency that arrested the petitioner;

18 (6) The case number and court of the offense;

19 **(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a**
20 **petition to expunge a record that will be forwarded to the central repository for the sole**
21 **purpose of positively identifying the petitioner.**

22 2. The petition shall name as defendants all law enforcement agencies, courts,
23 prosecuting attorneys, central state depositories of criminal records or others who the petitioner
24 has reason to believe may possess the records subject to expungement. The court's order shall
25 not affect any person or entity not named as a defendant in the action.

26 3. The court shall set a hearing on the matter no sooner than thirty days from the filing
27 of the petition and shall give reasonable notice of the hearing to each official or agency or other
28 entity named in the petition.

29 4. If the court finds that the petitioner is entitled to expungement of any record that is the
30 subject of the petition, it shall enter an order directing expungement. A copy of the order shall
31 be provided to each agency identified in the petition pursuant to subsection 2 of this section.

32 5. The supreme court shall promulgate rules establishing procedures for the handling of
33 cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall
34 be similar to the procedures established in chapter 482, RSMo, for the handling of small claims.

630.140. 1. Information and records compiled, obtained, prepared or maintained by the
2 residential facility, day program operated, funded or licensed by the department or otherwise,
3 specialized service, or by any mental health facility or mental health program in which people
4 may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to
5 either voluntary or involuntary patients, residents or clients shall be confidential.

6 2. The facilities or programs shall disclose information and records including medication
7 given, dosage levels, and individual ordering such medication to the following upon their
8 request:

9 (1) The parent of a minor patient, resident or client;

10 (2) The guardian or other person having legal custody of the patient, resident or client;

11 (3) The attorney of a patient, resident or client who is a ward of the juvenile court, an
12 alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as
13 evidenced by court orders of the attorney's appointment;

14 (4) An attorney or personal physician as authorized by the patient, resident or client;

15 (5) Law enforcement officers and agencies, information about patients, residents or
16 clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out
17 the responsibilities of their office, and all such law enforcement officers shall be obligated to
18 keep such information confidential;

19 (6) The entity or agency authorized to implement a system to protect and advocate the
20 rights of persons with developmental disabilities under the provisions of 42 U.S.C. 6042. The
21 entity or agency shall be able to obtain access to the records of a person with developmental
22 disabilities who is a client of the entity or agency if such person has authorized the entity or
23 agency to have such access; and the records of any person with developmental disabilities who,
24 by reason of mental or physical condition is unable to authorize the entity or agency to have such
25 access, if such person does not have a legal guardian, conservator or other legal representative,
26 and a complaint has been received by the entity or agency with respect to such person or there
27 is probable cause to believe that such person has been subject to abuse or neglect. The entity or
28 agency obtaining access to a person's records shall meet all requirements for confidentiality as
29 set out in this section;

30 (7) The entity or agency authorized to implement a system to protect and advocate the
31 rights of persons with mental illness under the provisions of 42 U.S.C 10801 shall be able to
32 obtain access to the records of a patient, resident or client who by reason of mental or physical
33 condition is unable to authorize the system to have such access, who does not have a legal
34 guardian, conservator or other legal representative and with respect to whom a complaint has
35 been received by the system or there is probable cause to believe that such individual has been
36 subject to abuse or neglect. The entity or agency obtaining access to a person's records shall
37 meet all requirements for confidentiality as set out in this section. The provisions of this
38 subdivision shall apply to a person who has a significant mental illness or impairment as
39 determined by a mental health professional qualified under the laws and regulations of the state;

40 (8) To mental health coordinators, but only to the extent necessary to carry out their
41 duties under chapter 632, RSMo.

42 3. The facilities or services may disclose information and records under any of the
43 following:

44 (1) As authorized by the patient, resident or client;

45 (2) To persons or agencies responsible for providing health care services to such patients,
46 residents or clients;

47 (3) To the extent necessary for a recipient to make a claim or for a claim to be made on
48 behalf of a recipient for aid or insurance;

49 (4) To qualified personnel for the purpose of conducting scientific research, management
50 audits, financial audits, program evaluations or similar studies; provided, that such personnel
51 shall not identify, directly or indirectly, any individual patient, resident or client in any report of
52 such research, audit or evaluation, or otherwise disclose patient, resident or client identities in
53 any manner;

54 (5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo,

55 552, RSMo, or 632, RSMo;

56 (6) To law enforcement officers or public health officers, but only to the extent necessary
57 to carry out the responsibilities of their office, and all such law enforcement and public health
58 officers shall be obligated to keep such information confidential;

59 (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

60 (8) To the attorney representing petitioners, but only to the extent necessary to carry out
61 their duties under chapter 632, RSMo;

62 (9) To the department of social services **or the department of health and senior**
63 **services** as necessary to report or have investigated abuse, neglect, or rights violations of
64 patients, residents, or clients;

65 (10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986,
66 but only to the extent necessary to carry out their statutory responsibilities. The county board
67 shall not identify, directly or indirectly, any individual patient, resident or client.

68 4. The facility or program shall document the dates, nature, purposes and recipients of
69 any records disclosed under this section and sections 630.145 and 630.150.

70 5. The records and files maintained in any court proceeding under chapter 632, RSMo,
71 shall be confidential and available only to the patient, his attorney, guardian, or, in the case of
72 a minor, to a parent or other person having legal custody of the patient, and to the petitioner and
73 his attorney. In addition, the court may order the release or use of such records or files only upon
74 good cause shown, and the court may impose such restrictions as the court deems appropriate.

75 6. Nothing contained in this chapter shall limit the rights of discovery in judicial or
76 administrative procedures as otherwise provided for by statute or rule.

77 7. The fact of admission of a voluntary or involuntary patient to a mental health facility
78 under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this
79 section.

630.167. 1. Upon receipt of a report, the department or its agents, contractors or vendors
2 or the department of health and senior services, if such facility or program is licensed pursuant
3 to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

4 2. If the investigation indicates possible abuse or neglect of a patient, resident or client,
5 the investigator shall refer the complaint together with the investigator's report to the department
6 director for appropriate action. If, during the investigation or at its completion, the department
7 has reasonable cause to believe that immediate removal from a facility not operated or funded
8 by the department is necessary to protect the residents from abuse or neglect, the department or
9 the local prosecuting attorney may, or the attorney general upon request of the department shall,
10 file a petition for temporary care and protection of the residents in a circuit court of competent
11 jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to

12 issue an ex parte order granting the department authority for the temporary care and protection
13 of the resident for a period not to exceed thirty days.

14 3. (1) Reports referred to in section 630.165 and the investigative reports referred to in
15 this section shall be confidential, shall not be deemed a public record, and shall not be subject
16 to the provisions of section 109.180, RSMo, or chapter 610, RSMo; except that: complete copies
17 all such reports shall be open and available to the parents or other guardian of the patient,
18 resident, or client who is the subject of such report, except that the names and any other
19 descriptive information of the complainant or other person mentioned in the reports shall not be
20 disclosed unless such complainant or person specifically consents to such disclosure. All reports
21 referred to in this section shall be admissible in any judicial proceedings or hearing in accordance
22 with section 36.390, RSMo, or any administrative hearing before the director of the department
23 of mental health, or the director's designee. All such reports may be disclosed by the department
24 of mental health to law enforcement officers and public health officers, but only to the extent
25 necessary to carry out the responsibilities of their offices, and to the department of social
26 services, **to the department of health and senior services**, and to boards appointed pursuant
27 to sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or
28 client as necessary to report or have investigated abuse, neglect, or rights violations of patients,
29 residents or clients provided that all such law enforcement officers, public health officers,
30 department of social services' officers, **department of health and senior services' officers**, and
31 boards shall be obligated to keep such information confidential;

32 (2) Except as otherwise provided in this section, the proceedings, findings, deliberations,
33 reports and minutes of committees of health care professionals as defined in section 537.035,
34 RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the
35 responsibility to evaluate, maintain, or monitor the quality and utilization of mental health
36 services are privileged and shall not be subject to the discovery, subpoena or other means of legal
37 compulsion for their release to any person or entity or be admissible into evidence into any
38 judicial or administrative action for failure to provide adequate or appropriate care. Such
39 committees may exist, either within department facilities or its agents, contractors, or vendors,
40 as applicable. Except as otherwise provided in this section, no person who was in attendance at
41 any investigation or committee proceeding shall be permitted or required to disclose any
42 information acquired in connection with or in the course of such proceeding or to disclose any
43 opinion, recommendation or evaluation of the committee or board or any member thereof;
44 provided, however, that information otherwise discoverable or admissible from original sources
45 is not to be construed as immune from discovery or use in any proceeding merely because it was
46 presented during proceedings before any committee or in the course of any investigation, nor is
47 any member, employee or agent of such committee or other person appearing before it to be

48 prevented from testifying as to matters within their personal knowledge and in accordance with
49 the other provisions of this section, but such witness cannot be questioned about the testimony
50 or other proceedings before any investigation or before any committee;

51 (3) Nothing in this section shall limit authority otherwise provided by law of a health
52 care licensing board of the state of Missouri to obtain information by subpoena or other
53 authorized process from investigation committees or to require disclosure of otherwise
54 confidential information relating to matters and investigations within the jurisdiction of such
55 health care licensing boards; provided, however, that such information, once obtained by such
56 board and associated persons, shall be governed in accordance with the provisions of this
57 subsection;

58 (4) Nothing in this section shall limit authority otherwise provided by law in
59 subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the
60 entity or agency authorized to implement a system to protect and advocate the rights of persons
61 with developmental disabilities under the provisions of 42 U.S.C. 6042 and the entity or agency
62 authorized to implement a system to protect and advocate the rights of persons with mental
63 illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve
64 to negate assurances that have been given by the governor of Missouri to the U.S. Administration
65 on Developmental Disabilities, Office of Human Development Services, Department of Health
66 and Human Services concerning access to records by the agency designated as the protection and
67 advocacy system for the state of Missouri. However, such information, once obtained by such
68 entity or agency, shall be governed in accordance with the provisions of this subsection.

69 4. Anyone who makes a report pursuant to this section or who testifies in any
70 administrative or judicial proceeding arising from the report shall be immune from any civil
71 liability for making such a report or for testifying unless such person acted in bad faith or with
72 malicious purpose.

73 5. Within five working days after a report required to be made pursuant to this section
74 is received, the person making the report shall be notified in writing of its receipt and of the
75 initiation of the investigation.

76 6. No person who directs or exercises any authority in a residential facility, day program
77 or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client
78 or employee because he or she or any member of his or her family has made a report of any
79 violation or suspected violation of laws, ordinances or regulations applying to the facility which
80 he or she has reasonable cause to believe has been committed or has occurred.

81 7. Any person who is discharged as a result of an administrative substantiation of
82 allegations contained in a report of abuse or neglect may, after exhausting administrative
83 remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county

84 in which such person resides within ninety days of such final administrative decision. The court
85 may accept an appeal up to twenty-four months after the party filing the appeal received notice
86 of the department's determination, upon a showing that:

- 87 (1) Good cause exists for the untimely commencement of the request for the review;
88 (2) If the opportunity to appeal is not granted it will adversely affect the party's
89 opportunity for employment; and
90 (3) There is no other adequate remedy at law.

630.170. 1. A person **who is listed on the department of mental health**
2 **disqualification registry pursuant to this section, who is listed on the department of social**
3 **services or the department of health and senior services employee disqualification list**
4 **pursuant to section 660.315, RSMo, or who has been convicted of or pled guilty or nolo**
5 **contendere to any crime pursuant to section 630.155 or 630.160 shall be disqualified from**
6 holding any position in any public or private facility or day program operated, funded or licensed
7 by the department or in any mental health facility or mental health program in which people are
8 admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632,
9 RSMo.

10 2. A person **who has been convicted of or pled guilty or nolo contendere to any felony**
11 offense against persons as defined in chapter 565, RSMo; [of] any felony sexual offense as
12 defined in chapter 566, RSMo; [of] any felony offense defined in section **568.020**, 568.045,
13 568.050, 568.060, 569.020, **569.025**, 569.030, **569.035**, 569.040 [or], 569.050, **569.070**, or
14 **569.160**, RSMo, or of an equivalent felony offense, **or who has been convicted of or pled**
15 **guilty or nolo contendere to any violation of subsection 3 of section 198.070, RSMo**, shall
16 be disqualified from holding any direct-care position in any public or private facility, day
17 program, residential facility or specialized service operated, funded or licensed by the department
18 or any mental health facility or mental health program in which people are admitted on a
19 voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

20 3. **A person who has received a suspended imposition of sentence or a suspended**
21 **execution of sentence following a plea of guilty to any of the disqualifying crimes listed in**
22 **subsection 1 or 2 of this section shall remain disqualified.**

23 4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section
24 may [appeal] **seek an exception to the disqualification [to] from** the director of the department
25 or the director's designee. The request shall be written and may not be made more than once
26 every twelve months. The request may be granted by the director or designee if in the judgment
27 of the director or designee a clear showing has been made by written submission only, that the
28 person will not commit any additional acts for which the person had originally been disqualified
29 for or any other acts that would be harmful to a patient, resident or client of a facility, program

30 or service. The director or designee may grant [the appeal] **an exception** subject to any
31 conditions deemed appropriate and failure to comply with such terms may result in the person
32 again being disqualified. Decisions by the director or designee pursuant to the provisions of this
33 subsection shall not be subject to appeal. The right to [appeal] **request an exception** pursuant
34 to this subsection shall not apply to persons [convicted of] **who are disqualified due to being**
35 **listed on the department of social services or department of health and senior services**
36 **employee disqualification list pursuant to section 660.315, RSMo, nor to persons**
37 **disqualified from employment due to** any crime pursuant to the provisions of chapter 566 [or
38 568], RSMo, or section 565.020 [or], 565.021, **568.020, 568.060, 569.025, or 569.070, RSMo.**

39 **5. An applicant for a direct care position in any public or private facility, day**
40 **program, residential facility, or specialized service operated, funded, or licensed by the**
41 **department or any mental health facility or mental health program in which people are**
42 **admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, shall:**

43 **(1) Sign a consent form as required by section 43.540, RSMo, to provide written**
44 **consent for a criminal record review;**

45 **(2) Disclose the applicant's criminal history. For the purposes of this subdivision**
46 **"criminal history" includes any suspended imposition of sentence, any suspended**
47 **execution of sentence, or any period of probation or parole; and**

48 **(3) Disclose if the applicant is listed on the employee disqualification list as**
49 **provided in section 660.315, RSMo, or the department of mental health disqualification**
50 **registry as provided for in this section.**

51 **6. Any person who has received a good cause waiver issued by the division of senior**
52 **services or its predecessor under subsection 9 of section 660.317, RSMo, shall not require**
53 **an additional exception under this section in order to be employed in a long-term care**
54 **facility licensed under chapter 198, RSMo.**

55 **7. Any public or private residential facility, day program, or specialized service**
56 **licensed, certified, or funded by the department shall, not later than two working days**
57 **after hiring any person for a full-time, part-time, or temporary position that will have**
58 **contact with clients, residents, or patients:**

59 **(1) Request a criminal background check as provided in section 43.540, RSMo;**

60 **(2) Make an inquiry to the department of social services and department of health**
61 **and senior services to determine whether the person is listed on the employee**
62 **disqualification list as provided in section 660.315, RSMo; and**

63 **(3) Make an inquiry to the department of mental health to determine whether the**
64 **person is listed on the disqualification registry as provided in this section.**

65 **8. An applicant who knowingly fails to disclose his or her criminal history as**

66 **required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is**
67 **guilty of a class A misdemeanor if the provider hires a person to hold a direct care position**
68 **knowing that such person has been disqualified pursuant to the provisions of subsection**
69 **1 or 2 of this section.**

70 [4.] 9. The department may maintain a disqualification registry and place on the registry
71 the names of any persons who have been finally determined by the department to be disqualified
72 pursuant to this section, or who have had administrative substantiations made against them for
73 abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from
74 holding any position in any public or private facility or day program operated, funded or licensed
75 by the department, or any mental health facility or mental health program in which persons are
76 admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

660.317. 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, RSMo;
- 4 (2) Provides in-home services under contract with the department;
- 5 (3) Employs nurses or nursing assistants for temporary or intermittent placement in
6 health care facilities; or
- 7 (4) Is an entity licensed pursuant to chapter 197, RSMo[;
- 8 (5) Is a public or private facility, day program, residential facility or specialized service
9 operated, funded or licensed by the department of mental health].

10 2. For the purpose of this section "patient or resident" has the same meaning as such term
11 is defined in section 43.540, RSMo.

12 3. Beginning August 28, 1997, not later than two working days of hiring any person for
13 a full-time, part-time or temporary position to have contact with any patient or resident the
14 provider shall, or in the case of temporary employees hired through an employment agency, the
15 employment agency shall prior to sending a temporary employee to a provider:

16 (1) Request a criminal background check as provided in section 43.540, RSMo.
17 Completion of an inquiry to the highway patrol for criminal records that are available for
18 disclosure to a provider for the purpose of conducting an employee criminal records background
19 check shall be deemed to fulfill the provider's duty to conduct employee criminal background
20 checks pursuant to this section; except that, completing the inquiries pursuant to this subsection
21 shall not be construed to exempt a provider from further inquiry pursuant to common law
22 requirements governing due diligence; and

23 (2) Make an inquiry to the department of social services, whether the person is listed on
24 the employee disqualification list as provided in section 660.315.

25 4. When the provider requests a criminal background check pursuant to section 43.530,

26 RSMo, the requesting entity may require that the applicant reimburse the provider for the cost
27 of such record check.

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

30 (1) Sign a consent form as required by section 43.540, RSMo, so the provider may
31 request a criminal records review;

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

36 (3) Disclose if the applicant is listed on the employee disqualification list as provided
37 in section 660.315.

38 6. An applicant who knowingly fails to disclose his criminal history as required in
39 subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class
40 A misdemeanor if the provider knowingly hires a person to have contact with patients or
41 residents and the person has been convicted of, pled guilty to or nolo contendere in this state or
42 any other state or has been found guilty of a crime, which if committed in Missouri would be a
43 class A or B felony violation of chapter 565, 566 or 569, RSMo, or any violation of subsection
44 3 of section 198.070, RSMo, or section 568.020, RSMo.

45 7. The highway patrol shall examine whether protocols can be developed to allow a
46 provider to request a statewide fingerprint criminal records review check through local law
47 enforcement agencies.

48 8. A provider may use a private investigatory agency rather than the highway patrol to
49 do a criminal history records review check, and alternatively, the applicant pays the private
50 investigatory agency such fees as the provider and such agency shall agree.

51 9. The department of social services shall promulgate rules and regulations to waive the
52 hiring restrictions pursuant to this section for good cause. For purposes of this section, "good
53 cause" means the department has made a determination by examining the employee's prior work
54 history and other relevant factors that such employee does not present a risk to the health or
55 safety of residents.

2 [43.521. Sections 43.500 to 43.530 shall not require fingerprinting of
3 juvenile offenders or reporting of information pertaining to a proceeding pursuant to
4 the Missouri juvenile code, except in those cases where a juvenile is certified to the
circuit court to stand trial as an adult.]

2 [210.937. The provisions of sections 210.900 to 210.936 shall terminate on
January 1, 2004.]

2 Section B. The enactment of section 168.283 of section A of this act shall become
2 effective on January 1, 2004.