

SECOND REGULAR SESSION

HOUSE BILL NO. 1650

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIXON.

Read 1st time March 9, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4919L.011

AN ACT

To repeal section 43.540, RSMo, and to enact in lieu thereof one new section relating to Missouri criminal record reviews, with a penalty provision.

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

Section A. Section 43.540, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.540, to read as follows:

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

- (1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity;
- (2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;
- (3) "Missouri criminal record review", a review of criminal history records [or] **and** sex offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the Missouri state highway patrol in the Missouri criminal records repository;
- (4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;
- (5) "Patient or resident", a person who by reason of age, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

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.

17 (6) "Provider", a person who:

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

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

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

22 (d) Owns or operates a qualified entity;

23 (7) "Qualified entity", a person, business, or organization, whether public or private, for
24 profit, not for profit, or voluntary, that provides care, placement, or educational services for
25 children, the elderly, or persons with disabilities as patients or residents, including a business or
26 organization that licenses or certifies others to provide care or placement services;

27 (8) "Youth services agency", any public or private agency, school, or association which
28 provides programs, care or treatment for or which exercises supervision over minors.

29 2. A qualified entity may obtain a Missouri criminal record review of a provider from
30 the highway patrol by furnishing information on forms and in the manner approved by the
31 highway patrol.

32 3. A qualified entity may request a Missouri criminal record review and a national
33 criminal record review of a provider through an authorized state agency. No authorized state
34 agency is required by this section to process Missouri or national criminal record reviews for a
35 qualified entity, however, if an authorized state agency agrees to process Missouri and national
36 criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized
37 state agency on forms and in a manner approved by the highway patrol the following:

38 (1) Two sets of fingerprints of the provider;

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

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

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

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

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

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

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

49 4. The authorized state agency shall forward the required forms and fees to the highway
50 patrol. The results of the record review shall be forwarded to the authorized state agency who
51 will notify the qualified entity. The authorized state agency may assess a fee to the qualified
52 entity to cover the cost of handling the criminal record review and may establish an account

53 solely for the collection and dissemination of fees associated with the criminal record reviews.

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

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