

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Bill No. 28, Page 1, Section A, Line 3, by inserting after said section and line the  
2 following:

3  
4 "37.725. 1. Any files maintained by the advocate program shall be disclosed only at the  
5 discretion of the child advocate; except that the identity of any complainant or recipient shall not be  
6 disclosed by the office unless:

7 (1) The complainant or recipient, or the complainant's or recipient's legal representative,  
8 consents in writing to such disclosure; ~~[or]~~

9 (2) Such disclosure is required by court order; or

10 (3) The disclosure is at the request of law enforcement as part of an investigation.

11 2. Any statement or communication made by the office relevant to a complaint received by,  
12 proceedings before, or activities of the office and any complaint or information made or provided in  
13 good faith by any person shall be absolutely privileged and such person shall be immune from suit.

14 3. Any representative of the office conducting or participating in any examination of a  
15 complaint who knowingly and willfully discloses to any person other than the office, or those  
16 persons authorized by the office to receive it, the name of any witness examined or any information  
17 obtained or given during such examination is guilty of a class A misdemeanor. However, the office  
18 conducting or participating in any examination of a complaint shall disclose the final result of the  
19 examination with the consent of the recipient.

20 4. The office shall not be required to testify in any court with respect to matters held to be  
21 confidential in this section except as the court may deem necessary to enforce the provisions of  
22 sections 37.700 to 37.730, or where otherwise required by court order."; and

23  
24 Further amend said bill and page, Section 43.253, Line 13, by inserting after said section and line  
25 the following:

26  
27 "43.539. 1. As used in this section, the following terms mean:

28 (1) "Applicant", a person who:

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

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

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

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- 1 (d) Is actively contracted with or seeks to contract with a qualified entity; or  
2 (e) Owns or operates a qualified entity;
- 3 (2) "Care", the provision of care, treatment, education, training, instruction, supervision, or  
4 recreation to children, the elderly, or disabled persons;
- 5 (3) "Missouri criminal record review", a review of criminal history records and sex offender  
6 registration records under sections 589.400 to 589.425 maintained by the Missouri state highway  
7 patrol in the Missouri criminal records repository;
- 8 (4) "Missouri Rap Back program", any type of automatic notification made by the Missouri  
9 state highway patrol to a qualified entity indicating that an applicant who is employed, licensed, or  
10 otherwise under the purview of that entity has been arrested for a reported criminal offense in  
11 Missouri as required under section 43.506;
- 12 (5) "National criminal record review", a review of the criminal history records maintained  
13 by the Federal Bureau of Investigation;
- 14 (6) "National Rap Back program", any type of automatic notification made by the Federal  
15 Bureau of Investigation through the Missouri state highway patrol to a qualified entity indicating  
16 that an applicant who is employed, licensed, or otherwise under the purview of that entity has been  
17 arrested for a reported criminal offense outside the state of Missouri and the fingerprints for that  
18 arrest were forwarded to the Federal Bureau of Investigation by the arresting agency;
- 19 (7) "Patient or resident", a person who by reason of age, illness, disease, or physical or  
20 mental infirmity receives or requires care or services furnished by an applicant, as defined in this  
21 section, or who resides or boards in, or is otherwise kept, cared for, treated, or accommodated in a  
22 facility as defined in section 198.006, for a period exceeding twenty-four consecutive hours;
- 23 (8) "Qualified entity", a person, business, or organization that provides care, care placement,  
24 or educational services for children, the elderly, or persons with disabilities as patients or residents,  
25 including a business or organization that licenses or certifies others to provide care or care  
26 placement services;
- 27 (9) "Youth services agency", any agency, school, or association that provides programs,  
28 care, or treatment for or exercises supervision over minors.
- 29 2. The central repository shall have the authority to submit applicant fingerprints to the  
30 National Rap Back program to be retained for the purpose of being searched against future  
31 submissions to the National Rap Back program, including latent fingerprint searches. Qualified  
32 entities may conduct Missouri and national criminal record reviews on applicants and participate in  
33 Missouri and National Rap Back programs for the purpose of determining suitability or fitness for a  
34 permit, license, or employment, and shall abide by the following requirements:
- 35 (1) The qualified entity shall register with the Missouri state highway patrol prior to  
36 submitting a request for screening under this section. As part of the registration, the qualified entity  
37 shall indicate if it chooses to enroll applicants in the Missouri and National Rap Back programs;
- 38 (2) Qualified entities shall notify applicants subject to a criminal record review under this  
39 section that the applicant's fingerprints shall be retained by the state central repository and the

1 Federal Bureau of Investigation and shall be searched against other fingerprints on file, including  
2 latent fingerprints;

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

7 (4) The criminal record review and Rap Back process described in this section shall be  
8 voluntary and conform to the requirements established in the National Child Protection Act of 1993,  
9 as amended, and other applicable state or federal law. As a part of the registration, the qualified  
10 entity shall agree to comply with state and federal law and shall indicate so by signing an agreement  
11 approved by the Missouri state highway patrol. The Missouri state highway patrol may periodically  
12 audit qualified entities to ensure compliance with federal law and this section;

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

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

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

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

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

31 (10) The qualified entity shall notify the applicant, in writing, of his or her right to obtain a  
32 copy of any criminal record review, including the criminal history records, if any, contained in the  
33 report and of the applicant's right to challenge the accuracy and completeness of any information  
34 contained in any such report and obtain a determination as to the validity of such challenge before a  
35 final determination regarding the applicant is made by the qualified entity reviewing the criminal  
36 history information. A qualified entity that is required by law to apply screening criteria, including  
37 any right to contest or request an exemption from disqualification, shall apply such screening  
38 criteria to the state and national criminal history record information received from the Missouri state  
39 highway patrol for those applicants subject to the required screening; and

1 (11) Failure to obtain the information authorized under this section, with respect to an  
2 applicant, shall not be used as evidence in any negligence action against a qualified entity. The  
3 state, any political subdivision of the state, or any agency, officer, or employee of the state or a  
4 political subdivision shall not be liable for damages for providing the information requested under  
5 this section.

6 3. The criminal record review shall include the submission of fingerprints to the Missouri  
7 state highway patrol, who shall conduct a Missouri criminal record review, including closed record  
8 information under section 610.120. The Missouri state highway patrol shall also forward a copy of  
9 the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal record  
10 review.

11 4. The applicant subject to a criminal record review shall provide the following information  
12 to the qualified entity:

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

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

17 (a) Name;

18 (b) Date of birth;

19 (c) Height;

20 (d) Weight;

21 (e) Eye color;

22 (f) Hair color;

23 (g) Gender;

24 (h) Race;

25 (i) Place of birth;

26 (j) Social Security number; and

27 (k) The applicant's photo.

28 5. Any information received by an authorized state agency or a qualified entity under the  
29 provisions of this section shall be used solely for internal purposes in determining the suitability of  
30 an applicant. The dissemination of criminal history information from the Federal Bureau of  
31 Investigation beyond the authorized state agency or related governmental entity is prohibited. All  
32 criminal record check information shall be confidential, and any person who discloses the  
33 information beyond the scope allowed is guilty of a class A misdemeanor.

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

1 (1) The entity has abided by all procedures and rules promulgated by the Missouri state  
2 highway patrol and Federal Bureau of Investigation regarding the Missouri and National Rap Back  
3 programs;

4 (2) The individual upon whom the Rap Back notification is being made has previously had a  
5 Missouri and national criminal record review completed for the qualified entity under this section  
6 ~~[within the previous six years]~~; and

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

9 7. The Missouri state highway patrol shall make available or approve the necessary forms,  
10 procedures, and agreements necessary to implement the provisions of this section.

11 43.540. 1. As used in this section, the following terms mean:

12 (1) "Applicant", a person who:

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

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

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

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

17 (2) "Missouri criminal record review", a review of criminal history records and sex offender  
18 registration records pursuant to sections 589.400 to 589.425 maintained by the Missouri state  
19 highway patrol in the Missouri criminal records repository;

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

24 (4) "National criminal record review", a review of the criminal history records maintained  
25 by the Federal Bureau of Investigation;

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

31 (6) "Qualified entity", an entity that is:

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

35 (b) An office or division of state, county, or municipal government, including a political  
36 subdivision or a board or commission designated by statute or approved local ordinance, to make  
37 fitness determinations on applications for state, county, or municipal government employment; or

38 (c) Any entity that is authorized to obtain criminal history record information under 28 CFR  
39 20.33.

1           2. The central repository shall have the authority to submit applicant fingerprints to the  
2 National Rap Back program to be retained for the purpose of being searched against future  
3 submissions to the National Rap Back program, including latent fingerprint searches. Qualified  
4 entities may conduct Missouri and national criminal record reviews on applicants and participate in  
5 Missouri and National Rap Back programs for the purpose of determining suitability or fitness for a  
6 permit, license, or employment, and shall abide by the following requirements:

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

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

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

19           (4) The criminal record review and Rap Back process described in this section shall be  
20 voluntary and conform to the requirements established in Pub. L. 92-544 and other applicable state  
21 or federal law. As a part of the registration, the qualified entity shall agree to comply with state and  
22 federal law and shall indicate so by signing an agreement approved by the Missouri state highway  
23 patrol. The Missouri state highway patrol may periodically audit qualified entities to ensure  
24 compliance with federal law and this section;

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

27           (6) Each request shall be accompanied by a reasonable fee, as provided in section 43.530,  
28 plus the amount required, if any, by the Federal Bureau of Investigation for the national criminal  
29 record review and enrollment in the National Rap Back program in compliance with applicable state  
30 or federal laws;

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

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

38           (9) This section shall not require the Missouri state highway patrol to make an eligibility  
39 determination on behalf of any qualified entity;

1 (10) The qualified entity shall notify the applicant, in writing, of his or her right to obtain a  
2 copy of any criminal record review, including the criminal history records, if any, contained in the  
3 report, and of the applicant's right to challenge the accuracy and completeness of any information  
4 contained in any such report and to obtain a determination as to the validity of such challenge before  
5 a final determination regarding the applicant is made by the qualified entity reviewing the criminal  
6 history information. A qualified entity that is required by law to apply screening criteria, including  
7 any right to contest or request an exemption from disqualification, shall apply such screening  
8 criteria to the state and national criminal history record information received from the Missouri state  
9 highway patrol for those applicants subject to the required screening; and

10 (11) Failure to obtain the information authorized under this section with respect to an  
11 applicant shall not be used as evidence in any negligence action against a qualified entity. The state,  
12 any political subdivision of the state, or any agency, officer, or employee of the state or a political  
13 subdivision shall not be liable for damages for providing the information requested under this  
14 section.

15 3. The criminal record review shall include the submission of fingerprints to the Missouri  
16 state highway patrol, who shall conduct a Missouri criminal record review, including closed record  
17 information under section 610.120. The Missouri state highway patrol shall also forward a copy of  
18 the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal record  
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20 4. The applicant subject to a criminal record review shall provide the following information  
21 to the qualified entity:

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28 (c) Height;

29 (d) Weight;

30 (e) Eye color;

31 (f) Hair color;

32 (g) Gender;

33 (h) Race;

34 (i) Place of birth;

35 (j) Social Security number; and

36 (k) The applicant's photo.

37 5. Any information received by an authorized state agency or a qualified entity pursuant to  
38 the provisions of this section shall be used solely for internal purposes in determining the suitability  
39 of an applicant. The dissemination of criminal history information from the Federal Bureau of

1 Investigation beyond the authorized state agency or related governmental entity is prohibited. All  
2 criminal record check information shall be confidential and any person who discloses the  
3 information beyond the scope allowed is guilty of a class A misdemeanor.

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

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

13 (2) The individual upon whom the Rap Back notification is being made has previously had a  
14 Missouri and national criminal record review completed for the qualified entity under this section  
15 [~~within the previous six years~~]; and

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

18 7. The highway patrol shall make available or approve the necessary forms, procedures, and  
19 agreements necessary to implement the provisions of this section."; and

20  
21 Further amend said bill by amending the title, enacting clause, and intersectional references  
22 accordingly.