

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By

1 AMEND House Amendment No. _____ to House Bill No. 70, Page 1, Line 1, by inserting after the
2 number "70," the following:

3
4 "Page 1, Section A, Line 3, by inserting after said section and line the following:

5
6 "43.539. 1. As used in this section, the following terms mean:

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

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

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

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

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

12 (e) Owns or operates a qualified entity;

13 (2) "Care", the provision of care, treatment, education, training, instruction, supervision, or
14 recreation to children, the elderly, or disabled persons;

15 (3) "Missouri criminal record review", a review of criminal history records and sex offender
16 registration records under sections 589.400 to 589.425 maintained by the Missouri state highway
17 patrol in the Missouri criminal records repository;

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

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

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

Action Taken _____ Date _____

1 (7) "Patient or resident", a person who by reason of age, illness, disease, or physical or
2 mental infirmity receives or requires care or services furnished by an applicant, as defined in this
3 section, or who resides or boards in, or is otherwise kept, cared for, treated, or accommodated in a
4 facility as defined in section 198.006, for a period exceeding twenty-four consecutive hours;

5 (8) "Qualified entity", a person, business, or organization that provides care, care placement,
6 or educational services for children, the elderly, or persons with disabilities as patients or residents,
7 including a business or organization that licenses or certifies others to provide care or care
8 placement services;

9 (9) "Youth services agency", any agency, school, or association that provides programs,
10 care, or treatment for or exercises supervision over minors.

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

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

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

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

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

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

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

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

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

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

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

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

27 3. The criminal record review shall include the submission of fingerprints to the Missouri
28 state highway patrol, who shall conduct a Missouri criminal record review, including closed record
29 information under section 610.120. The Missouri state highway patrol shall also forward a copy of
30 the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal record
31 review.

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

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

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

38 (a) Name;

39 (b) Date of birth;

- 1 (c) Height;
- 2 (d) Weight;
- 3 (e) Eye color;
- 4 (f) Hair color;
- 5 (g) Gender;
- 6 (h) Race;
- 7 (i) Place of birth;
- 8 (j) Social Security number; and
- 9 (k) The applicant's photo.

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

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

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

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

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

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

32 43.540. 1. As used in this section, the following terms mean:

- 33 (1) "Applicant", a person who:
 - 34 (a) Is actively employed by or seeks employment with a qualified entity;
 - 35 (b) Is actively licensed or seeks licensure with a qualified entity;
 - 36 (c) Actively volunteers or seeks to volunteer with a qualified entity; or
 - 37 (d) Is actively contracted with or seeks to contract with a qualified entity;

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

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

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

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

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

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

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

22 (c) Any entity that is authorized to obtain criminal history record information under 28 CFR
23 20.33.

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

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

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

38 (3) Qualified entities shall notify applicants subject to enrollment in the National Rap Back
39 program that the applicant's fingerprints, while retained, may continue to be compared against other

1 fingerprints submitted or retained by the Federal Bureau of Investigation, including latent
2 fingerprints;

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

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

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

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

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

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

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

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

38 3. The criminal record review shall include the submission of fingerprints to the Missouri
39 state highway patrol, who shall conduct a Missouri criminal record review, including closed record

1 information under section 610.120. The Missouri state highway patrol shall also forward a copy of
2 the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal record
3 review.

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

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

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

10 (a) Name;

11 (b) Date of birth;

12 (c) Height;

13 (d) Weight;

14 (e) Eye color;

15 (f) Hair color;

16 (g) Gender;

17 (h) Race;

18 (i) Place of birth;

19 (j) Social Security number; and

20 (k) The applicant's photo.

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

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

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

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

1 (3) The individual upon whom the Rap Back notification is being made is a current
2 employee, licensee, or otherwise still actively under the purview of the qualified entity.
3 7. The highway patrol shall make available or approve the necessary forms, procedures, and
4 agreements necessary to implement the provisions of this section."; and

5
6 Further amend said bill,"; and

7
8 Further amend said bill by amending the title, enacting clause, and intersectional references
9 accordingly.

10
11 THIS AMENDMENT AMENDS 0764H01.02H.