

FIRST REGULAR SESSION

HOUSE BILL NO. 81

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VEIT.

0114H.031

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 210.493, RSMo, and to enact in lieu thereof one new section relating to certain required background checks.

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

Section A. Section 210.493, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.493, to read as follows:

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

- (1) **"Applicant", any individual who applies or is required to successfully complete the background check requirements for employment or presence at a licensed residential care facility, license-exempt residential care facility, or child placing agency. For the purposes of background checks conducted by the Missouri state highway patrol, the term "applicant" is further defined in section 43.540;**
- (2) **"Contractor", a person who contracts to do work for or supply goods to a licensed residential care facility, license-exempt residential care facility, or child placing agency;**
- (3) **"Employee", an individual who works in the service of a licensed residential care facility, license-exempt residential care facility, or child placing agency under an express or implied contract for hire, whether written or unwritten or full time or part time, under which the licensed residential care facility, license-exempt residential care facility, or child placing agency has the right to control, in whole or in part, the details of the individual's work performance;**
- (4) **"Owner", an individual who holds an equity interest in a licensed residential care facility, license-exempt residential care facility, or child placing agency;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(5) "Volunteer", an individual who performs a service for or on behalf of a**
19 **licensed residential care facility, license-exempt residential care facility, or child placing**
20 **agency of the individual's own free will without obligation or without any expectation of**
21 **a reward or compensation.**

22 ~~[Officers, managers,]~~ **2.** Contractors, volunteers with access to children, **and**
23 employees~~[-, and other support staff]~~ of licensed residential care facilities and licensed child
24 placing agencies in accordance with sections 210.481 to 210.536; owners of such residential
25 care facilities who will have access to the facilities; and owners of such child placing agencies
26 who will have access to children shall submit fingerprints and any information that the
27 department requires to complete the background checks, as specified in regulations
28 established by the department, to the Missouri state highway patrol for the purpose of
29 conducting state and federal fingerprint-based background checks.

30 ~~[2- Officers, managers,]~~ **3.** Contractors, volunteers with access to children, **and**
31 employees~~[-, and other support staff]~~ of residential care facilities subject to the notification
32 requirements under sections 210.1250 to 210.1286; any person eighteen years of age or older
33 who resides at or on the property of such residential care facility; any person who has
34 unsupervised contact with a resident of the residential care facility; and owners of such
35 residential care facilities who will have access to the facilities shall submit fingerprints and
36 any information that the department requires to complete the background checks, as specified
37 in regulations established by the department, to the Missouri state highway patrol for the
38 purpose of conducting state and federal fingerprint-based background checks.

39 ~~[3-]~~ **4.** A background check shall include:

40 (1) A **state and** Federal Bureau of Investigation fingerprint check; **and**

41 (2) ~~[A search of the National Crime Information Center's National Sex Offender~~
42 ~~Registry; and~~

43 ~~(3)]~~ A search of the following registries, repositories, or databases in Missouri, the
44 state where the applicant resides, and each state where such applicant resided during the
45 preceding five years:

46 (a) The state criminal registry or repository, with the use of fingerprints being
47 required in the state where the applicant resides and optional in other states;

48 (b) The state sex offender registry or repository;

49 (c) The state family care safety registry; and

50 (d) The state-based child abuse and neglect registry and database.

51 ~~[4-]~~ **5.** For the purposes this section and notwithstanding any other provision of law,
52 "department" means the department of social services.

53 ~~[5-]~~ 6. The department shall be responsible for background checks as part of a
54 residential care facility or child placing agency application for licensure, renewal of licensure,
55 or for license monitoring.

56 ~~[6-]~~ 7. The department shall be responsible for background checks for residential care
57 facilities subject to the notification requirements of sections 210.1250 to 210.1286.

58 ~~[7-]~~ 8. Fingerprint cards and any required fees shall be sent to the Missouri state
59 highway patrol's central repository. The fingerprints shall be used for searching the state
60 criminal records repository and shall also be forwarded to the Federal Bureau of Investigation
61 for a federal criminal records search under section 43.540. The Missouri state highway patrol
62 shall notify the department of any criminal history record information or lack of criminal
63 history record information discovered on the individual. Notwithstanding the provisions of
64 section 610.120, all records related to any criminal history information discovered shall be
65 accessible and available to the department.

66 ~~[8-]~~ 9. Fingerprints submitted to the Missouri state highway patrol for the purpose of
67 conducting state and federal fingerprint-based background checks under this section shall be
68 valid for a period of five years.

69 ~~[9-]~~ 10. The department shall provide the results of the background check to the
70 applicant in a statement that indicates whether the applicant is eligible or ineligible for
71 employment or presence at the licensed residential care facility or licensed child placing
72 agency. The department shall not reveal to the residential care facility or the child placing
73 agency any disqualifying offense or other related information regarding the applicant. The
74 applicant shall have the opportunity to appeal an ineligible finding.

75 ~~[10-]~~ 11. The department shall provide the results of the background check to the
76 applicant in a statement that indicates whether the applicant is eligible or ineligible for
77 employment or presence at the residential care facility subject to the notification requirements
78 of sections 210.1250 to 210.1286. The department shall not reveal to the residential care
79 facility any disqualifying offense or other related information regarding the applicant. The
80 applicant shall have the opportunity to appeal an ineligible finding.

81 ~~[11-]~~ 12. An applicant shall be ineligible if the applicant:

82 (1) Refuses to consent to the background check as required by this section;

83 (2) Knowingly makes a materially false statement in connection with the background
84 check as required by this section;

85 (3) Is registered, or is required to be registered, on a state sex offender registry or
86 repository ~~[or the National Sex Offender Registry];~~

87 (4) Is listed as a perpetrator of child abuse or neglect under sections 210.109 to
88 210.183 or any other finding of child abuse or neglect based on any other state's registry or
89 database; or

90 (5) Has pled guilty or nolo contendere to or been found guilty of:

91 (a) Any felony for an offense against the person as defined in chapter 565;

92 (b) Any other offense against the person involving the endangerment of a child as
93 prescribed by law;

94 (c) Any misdemeanor or felony for a sexual offense as defined in chapter 566;

95 (d) Any misdemeanor or felony for an offense against the family as defined in chapter
96 568;

97 (e) Burglary in the first degree as defined in section 569.160;

98 (f) Any misdemeanor or felony for robbery as defined in chapter 570;

99 (g) Any misdemeanor or felony for pornography or related offense as defined in
100 chapter 573;

101 (h) Any felony for arson as defined in chapter 569;

102 (i) Any felony for armed criminal action as defined in section 571.015, unlawful use
103 of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in
104 section 571.070, or the unlawful possession of an explosive as defined in section 571.072;

105 (j) Any felony for making a terrorist threat as defined in section 574.115, 574.120, or
106 574.125;

107 (k) A felony drug-related offense committed during the preceding five years; or

108 (l) Any similar offense in any federal, state, or other court of similar jurisdiction of
109 which the department has knowledge.

110 ~~[12.]~~ **13.** Any person aggrieved by a decision of the department shall have the right to
111 seek an administrative review. The review shall be filed with the department within fourteen
112 days from the mailing of the notice of ineligibility. Any decision not timely appealed shall be
113 final.

114 ~~[13.]~~ **14.** Any required fees shall be paid by the individual applicant, facility, or
115 agency.

116 ~~[14.]~~ **15.** The department is authorized to promulgate rules, including emergency
117 rules, to implement the provisions of this section. Any rule or portion of a rule, as that term is
118 defined in section 536.010, that is created under the authority delegated in this section shall
119 become effective only if it complies with and is subject to all of the provisions of chapter 536
120 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
121 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
122 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
123 the grant of rulemaking authority and any rule proposed or adopted after July 14, 2021, shall
124 be invalid and void.