

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 81

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE VEIT.

0114H.03P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 43.539, 43.540, and 210.493, RSMo, and to enact in lieu thereof five new sections relating to certain required background checks.

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

Section A. Sections 43.539, 43.540, and 210.493, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 43.539, 43.540, 171.097, 195.817, and 210.493, to read as follows:

- 43.539. 1. As used in this section, the following terms mean:
- (1) "Applicant", a person who:
    - (a) Is actively employed by or seeks employment with a qualified entity;
    - (b) Is actively licensed or seeks licensure with a qualified entity;
    - (c) Actively volunteers or seeks to volunteer with a qualified entity;
    - (d) Is actively contracted with or seeks to contract with a qualified entity; or
    - (e) Owns or operates a qualified entity;
  - (2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or disabled persons;
  - (3) "Missouri criminal record review", a review of criminal history records and sex offender registration records under sections 589.400 to 589.425 maintained by the Missouri state highway patrol in the Missouri criminal records repository;
  - (4) "Missouri Rap Back program", any type of automatic notification made by the Missouri state highway patrol to a qualified entity indicating that an applicant who is

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.

15 employed, licensed, or otherwise under the purview of that entity has been arrested for a  
16 reported criminal offense in Missouri as required under section 43.506;

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

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

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

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

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

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

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

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

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

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

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

64 (6) Each request shall be accompanied by a reasonable fee, as provided in section  
65 43.530, plus the amount required, if any, by the Federal Bureau of Investigation for the  
66 national criminal record review and enrollment in the National Rap Back program in  
67 compliance with the National Child Protection Act of 1993, as amended, and other applicable  
68 state or federal laws;

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

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

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

82 (10) The qualified entity shall notify the applicant, in writing, of his or her right to  
83 obtain a copy of any criminal record review, including the criminal history records, if any,  
84 contained in the report and of the applicant's right to challenge the accuracy and completeness  
85 of any information contained in any such report and obtain a determination as to the validity  
86 of such challenge before a final determination regarding the applicant is made by the qualified  
87 entity reviewing the criminal history information. A qualified entity that is required by law to

88 apply screening criteria, including any right to contest or request an exemption from  
89 disqualification, shall apply such screening criteria to the state and national criminal history  
90 record information received from the Missouri state highway patrol for those applicants  
91 subject to the required screening; and

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

97 3. The criminal record review shall include the submission of fingerprints to the  
98 Missouri state highway patrol, who shall conduct a Missouri criminal record review,  
99 including closed record information under section 610.120. The Missouri state highway  
100 patrol shall also forward a copy of the applicant's fingerprints to the Federal Bureau of  
101 Investigation for a national criminal record review.

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

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

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

108 (a) Name;

109 (b) Date of birth;

110 (c) Height;

111 (d) Weight;

112 (e) Eye color;

113 (f) Hair color;

114 (g) Gender;

115 (h) Race;

116 (i) Place of birth;

117 (j) Social Security number; and

118 (k) The applicant's photo.

119 5. Any information received by an authorized state agency or a qualified entity under  
120 the provisions of this section shall be used solely for internal purposes in determining the  
121 suitability of an applicant. The dissemination of criminal history information from the  
122 Federal Bureau of Investigation beyond the authorized state agency or related governmental  
123 entity is prohibited. All criminal record check information shall be confidential, and any

124 person who discloses the information beyond the scope allowed is guilty of a class A  
125 misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16         (5) "National Rap Back program", shall include any type of automatic notification  
17 made by the Federal Bureau of Investigation through the Missouri state highway patrol to a  
18 qualified entity indicating that an applicant who is employed, licensed, or otherwise under the  
19 purview of that entity has been arrested for a reported criminal offense outside the state of

20 Missouri and the fingerprints for that arrest were forwarded to the Federal Bureau of  
21 Investigation by the arresting agency;

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

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

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

30 (c) Any entity that is authorized to obtain criminal history record information under  
31 28 CFR 20.33.

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

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

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

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

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

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

59 (6) Each request shall be accompanied by a reasonable fee, as provided in section  
60 43.530, plus the amount required, if any, by the Federal Bureau of Investigation for the  
61 national criminal record review and enrollment in the National Rap Back program in  
62 compliance with applicable state or federal laws;

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

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

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

72 (10) The qualified entity shall notify the applicant, in writing, of his or her right to  
73 obtain a copy of any criminal record review, including the criminal history records, if any,  
74 contained in the report, and of the applicant's right to challenge the accuracy and  
75 completeness of any information contained in any such report and to obtain a determination  
76 as to the validity of such challenge before a final determination regarding the applicant is  
77 made by the qualified entity reviewing the criminal history information. A qualified entity  
78 that is required by law to apply screening criteria, including any right to contest or request an  
79 exemption from disqualification, shall apply such screening criteria to the state and national  
80 criminal history record information received from the Missouri state highway patrol for those  
81 applicants subject to the required screening; and

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

87 3. The criminal record review shall include the submission of fingerprints to the  
88 Missouri state highway patrol, who shall conduct a Missouri criminal record review,  
89 including closed record information under section 610.120. The Missouri state highway  
90 patrol shall also forward a copy of the applicant's fingerprints to the Federal Bureau of  
91 Investigation for a national criminal record review.

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

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

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

98 (a) Name;

99 (b) Date of birth;

100 (c) Height;

101 (d) Weight;

102 (e) Eye color;

103 (f) Hair color;

104 (g) Gender;

105 (h) Race;

106 (i) Place of birth;

107 (j) Social Security number; and

108 (k) The applicant's photo.

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

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

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

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

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



130 7. The highway patrol shall make available or approve the necessary forms,  
131 procedures, and agreements necessary to implement the provisions of this section.

**171.097. 1. School districts shall ensure that a state criminal history background  
2 check consisting of open records is conducted on any person who is eighteen years of age  
3 or older, who is not counted by the district for purposes of average daily attendance  
4 under section 163.011, and who requests enrollment in a course that takes place on  
5 school district property during regular school hours and includes students counted by  
6 the district for purposes of average daily attendance under section 163.011.**

7 **2. The state criminal history background check required under this section shall  
8 be processed through the Missouri state highway patrol prior to enrollment. The person  
9 requesting enrollment in a course as described in this section shall pay the fee for the  
10 state criminal history background check pursuant to section 43.530.**

11 **3. If, as a result of the criminal history background check required under this  
12 section, it is determined that a person who requested enrollment has been convicted of a  
13 crime or offense listed in subsection 6 of section 168.071, or a similar crime or offense  
14 committed in another state, the United States, or any other country, regardless of  
15 imposition of sentence, the school district shall prohibit such person from enrolling in  
16 any course for which a state criminal history background check is required under this  
17 section.**

**195.817. 1. The department of health and senior services shall require all  
2 employees, contractors, owners, and volunteers of marijuana facilities to submit  
3 fingerprints to the Missouri state highway patrol for the purpose of conducting a state  
4 and federal fingerprint-based criminal background check.**

5 **2. The department may require that such fingerprint submissions be made as  
6 part of a marijuana facility application, a marijuana facility renewal application, and an  
7 individual's application for a license or permit authorizing that individual to be an  
8 employee, contractor, owner, or volunteer of a marijuana facility.**

9 **3. Fingerprint cards and any required fees shall be sent to the Missouri state  
10 highway patrol's central repository. The fingerprints shall be used for searching the  
11 state criminal records repository and shall also be forwarded to the Federal Bureau of  
12 Investigation for a federal criminal records search under section 43.540. The Missouri  
13 state highway patrol shall notify the department of any criminal history record  
14 information or lack of criminal history record information discovered on the individual.  
15 Notwithstanding the provisions of section 610.120 to the contrary, all records related to  
16 any criminal history information discovered shall be accessible and available to the  
17 department.**

18 **4. As used in this section, the following terms shall mean:**

19           **(1) "Contractor", a person who spends more than fourteen days per year**  
20 **performing work or service of any kind for a marijuana facility in accordance with a**  
21 **contract with that facility;**

22           **(2) "Marijuana facility", an entity licensed or certified by the department of**  
23 **health and senior services to cultivate, manufacture, test, transport, dispense, or**  
24 **conduct research on marijuana or marijuana products;**

25           **(3) "Owner", an individual who has a financial interest or voting interest in ten**  
26 **percent or greater of a marijuana facility.**

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

2           **(1) "Applicant", any individual who applies or is required to successfully**  
3 **complete the background check requirements for employment or presence at a licensed**  
4 **residential care facility, license-exempt residential care facility, or child placing agency.**  
5 **For the purposes of background checks conducted by the Missouri state highway patrol,**  
6 **the term "applicant" is further defined in section 43.540;**

7           **(2) "Contractor", a person who contracts to do work for or supply goods to a**  
8 **licensed residential care facility, license-exempt residential care facility, or child placing**  
9 **agency;**

10           **(3) "Employee", an individual who works in the service of a licensed residential**  
11 **care facility, license-exempt residential care facility, or child placing agency under an**  
12 **express or implied contract for hire, whether written or unwritten or full time or part**  
13 **time, under which the licensed residential care facility, license-exempt residential care**  
14 **facility, or child placing agency has the right to control, in whole or in part, the details of**  
15 **the individual's work performance;**

16           **(4) "Owner", an individual who holds an equity interest in a licensed residential**  
17 **care facility, license-exempt residential care facility, or child placing agency;**

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;

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 ~~[+2-]~~ **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 ~~[+3-]~~ **14.** Any required fees shall be paid by the individual applicant, facility, or  
115 agency.

116 ~~[+4-]~~ **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.

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