

FIRST REGULAR SESSION
[CORRECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 184
92ND GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention & Public Safety May 8, 2003, with recommendation that the House Committee Substitute for Senate Bill No. 184 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

0515L.04C

AN ACT

To repeal sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 195.505, 210.903, 210.909, 210.922, 210.937, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, and to enact in lieu thereof twenty new sections relating to criminal records, with penalty provisions.

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

Section A. Sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 195.505, 210.903, 210.909, 210.922, 210.937, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 43.500, 43.503, 43.506, 43.527, 43.530, 43.532, 43.540, 43.542, 43.543, 43.650, 195.505, 210.903, 210.909, 210.922, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, to read as follows:

43.500. As used in sections 43.500 to [43.530] **43.543**, the following terms mean:

(1) **"Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history information, including fingerprint searches, photographs, and other indicia of identification;**

(2) **"Central repository", the Missouri state highway patrol criminal records and identification**

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.

division for compiling and disseminating complete and accurate criminal history records **and for compiling, maintaining, and disseminating criminal incident and arrest reports and statistics;**

[(2)] **(3)** "Committee", criminal records **and justice information** advisory committee;

[(3)] **(4)** "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

[(4)] **(5)** "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system;

(6) "Missouri charge code", a unique number assigned by the office of state courts administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the complete charge code shall consist of digits assigned by the office of state courts administrator, the two digit national crime information center modifiers and a single digit designating attempt, accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that are not using the statewide court automation case management pursuant to section 476.055, RSMo; the effective date will be as soon thereafter as economically feasible for all other courts;

[(5)] **(7) "State offense cycle number", a [preprinted] unique number, supplied by or approved by the Missouri state highway patrol, on the state criminal fingerprint card [which]. The offense cycle number, OCN, is used to [identify each arrest which may include multiple offenses for which a person is fingerprinted. This number] link the identity of a person, through fingerprints, to one or many offenses for which the person is arrested or charged. The OCN will be [associated with] used to track an offense incident from the date of arrest to the [date] final disposition when the offender exits from the criminal justice system[;**

(6) "Without undue delay", as soon as possible but not later than thirty days after the criminal history event;

(7) "Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification].

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to [43.530] **43.543.**

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, **appropriate charge codes**, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied **or approved** by the highway patrol **or electronically in a format and manner approved by the highway patrol**. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, **appropriate charge codes**, and descriptions to the central repository upon its behalf.

3. In instances where an individual less than seventeen years of age **and not currently certified as an adult** is taken into custody for an offense which would be [considered] a felony if committed by an adult, the arresting officer shall take [one set of] fingerprints for the central repository [and may take another set for inclusion in a local or regional automated fingerprint identification system]. These fingerprints shall be taken on fingerprint cards [which are plainly marked "juvenile card" and shall be provided by the central repository] **supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol**. The fingerprint cards shall be so constructed that [only the fingerprints, unique identifying number, and the court of jurisdiction are] **the name of the juvenile should not be** made available to the central [or local] repository. [The remainder of the card which bears] The individual's [identification] **name** and the [duplicate] unique number **associated with the fingerprints and other pertinent information** shall be provided to the court of jurisdiction **by the agency taking the juvenile into custody**. The [appropriate portion of the juvenile fingerprint card] **juvenile's fingerprints and other information** shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. [The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards.] In the event the fingerprints [from this card] are found to match **other tenprints or unsolved** latent prints [searched in the automated fingerprint identification system], **the central repository shall notify the submitting agency who shall notify** the court of jurisdiction [shall be so advised] **as per local agreement**.

4. Upon certification of the individual as an adult, the court shall order a law enforcement agency to immediately fingerprint the individual. The law enforcement agency shall submit such fingerprints to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided under section 610.100, RSMo, if a petition has not been filed

within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

[3.] **5.** The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol **or in a manner approved by the highway patrol** of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, **the charge code for the offense**, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

[4.] **6.** The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol **or in a manner approved by the highway patrol**, with all final dispositions of [criminal] cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to [subsections 6 and 7 of this section] **sections 43.500 to 43.506**. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the [reporting] **sentencing** court, using such numbers as assigned by the highway patrol.

[5.] **7.** The clerk of the courts of each county or city not within a county shall furnish, **to the department of corrections or department of mental health**, court judgment and sentence documents and the state offense cycle number **and the charge code** of the offense[,], which [result] **resulted** in the commitment or assignment of an offender[,], to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested **or in a manner and format mutually agreed to**, within [ten] **fifteen** days of such disposition.

[6. After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo,] **8. Information and fingerprints, and other indicia forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. If at the time of disposition, the defendant has not been fingerprinted for an offense in which a fingerprint is required by statute to be collected, maintained, or disseminated by the central repository, the court shall order a law enforcement agency to fingerprint immediately [all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case] the defendant. The law enforcement agency shall submit such fingerprints to the central repository without undue delay and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.**

[7.] **9.** The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, **legal name change**, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

43.506. 1. Those offenses considered reportable for the purposes of sections 43.500 to [43.530] **43.543** include all felonies and serious or aggravated misdemeanors consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System. In addition, all cases arising pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under seventeen years of age and the court imposes a suspended imposition of sentence shall be reported. The following types of offenses shall not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to 43.530, and 595.200 to 595.218, RSMo: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code. All violations for driving under the influence of drugs or alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected pursuant to sections

43.500 to 43.530 shall be available only as set forth in section 610.120, RSMo.

2. [With the exception of the manual reporting of arrests and fingerprints by law enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding subsections 2 to 7 of section 43.503,] Law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer systems in the state with the approval of the [advisory committee] **highway patrol, based upon standards established by the advisory committee.**

3. In addition to the repository of fingerprint records for individual offenders **and applicants**, the central repository of criminal history **and identification** records for the state shall maintain a repository of latent prints, **palm prints and other prints submitted to the repository.**

43.527. For purposes of sections 43.500 to 43.530 all [federal and nonstate of Missouri] agencies **and persons** shall pay for criminal records checks, fingerprint searches, and any of the information as defined in subdivision (3) of section 43.500, when such information is not related to the administration of criminal justice. **There shall be no charge for information supplied to political subdivisions or criminal justice agencies for the administration of criminal justice. There shall be no charge for information requested by Missouri state agencies screening their state employees or applicants for state employment.** For purposes of sections 43.500 to [43.530] **43.543** the administration of criminal justice is defined in subdivision (7) of section 43.500 **and shall be available only as set forth in section 610.120, RSMo.**

43.530. 1. For each request **requiring the payment of a fee** received by the central repository, [as defined in subdivision (1) of section 43.500,] the requesting entity shall pay a fee of not more than five dollars per request for criminal history record information **not based on a fingerprint search** and pay a fee of not more than fourteen dollars per request for [classification and search of fingerprints] **criminal history record information based on a fingerprint search.** Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, or money order payable to the state of Missouri-criminal record system **or payment shall be made in a manner approved by the highway patrol.** There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in [section 43.527] **sections 43.500 to 43.543**, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

2. **For purposes of obtaining criminal records prior to issuance of a school bus operator's permit pursuant to section 303.272, RSMo, and for determining eligibility for such permit, the applicant for such permit shall submit two sets of fingerprints to the director of revenue when applying for the permit. The fingerprints shall be collected in a manner approved by the**

superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate fee described in this section and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit. Collections for records described in this subsection shall be deposited in the criminal record system fund.

43.532. 1. Criminal history and identification records obtained from the central repository shall be used solely for the purpose for which they were obtained. The subject of the record shall be afforded the opportunity to challenge the correctness, accuracy, or completeness of a criminal history record.

2. The central records repository shall have authority to engage in the practice of collecting, assembling, or disseminating criminal history record information for the purpose of retaining manually or electronically stored criminal history information. Any person obtaining criminal history record information from the central repository under false pretense, or who advertises or engages in the practice of collecting, assembling, and disseminating as a business enterprise, other than for the purpose of furnishing criminal history information to the authorized requester for its intended purpose, is guilty of a class A misdemeanor.

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 [request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo] review of criminal history records or 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;**

[(2)] (5) **"Patient or resident", a person who by reason of [aging] 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;**

[(3)] **"Patrol", the Missouri state highway patrol;**

(4)] (6) **"Provider", [any licensed day care home, licensed day care center, licensed child-placing agency, licensed residential care facility for children, licensed group home, licensed foster family group**

home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo] **a person who:**

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

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

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

(d) Owns or operates a qualified entity;

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

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

[2. Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents. 3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any other offenses contained in the criminal record review. Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.]

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

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

- (1) Two sets of fingerprints of the provider;
- (2) A statement signed by the provider which contains:
 - (a) The provider's name, address, and date of birth;
 - (b) Whether the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;
 - (c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;
 - (d) The authority of the qualified entity to check the provider's criminal history;
 - (e) The right of the provider to review the report received by the qualified entity; and
 - (f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

4. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

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

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

43.542. In order to facilitate the authorized interstate exchange of criminal history information for noncriminal justice purposes to adopt the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, the legislature approves and adopts the compact. The chief

administrator of the state's criminal history records repository shall execute the compact on behalf of the state of Missouri.

43.543. Any state agency listed in section 621.045, RSMo, [or any state agency which provides programs, care or treatment for or which exercises supervision over minors shall submit two sets of fingerprints for any person seeking employment with such agency or provider or for any person who is seeking the issuance or renewal of a license, permit or certificate of registration or authority from such agency, for the purpose of checking the person's prior criminal history when the state agency determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual.] **the division of professional registration of the department of economic development, the department of social services, the supreme court of Missouri, the department of elementary and secondary education, the Missouri lottery, and the Missouri gaming commission, which screen persons seeking employment with such agencies or issuance or renewal of a license, permit, certificate, or registration of authority from such agencies; or any state agency or committee which is authorized by state statute or executive order to screen applicants or candidates seeking or considered for employment, assignment, or appointment to a position within state government; or the Missouri peace officers standards and training, POST, commission which screens persons, not employed by a criminal justice agency, who seek enrollment or access into a certified POST training academy police school, or persons seeking a permit to purchase or possess a firearm for employment as a watchman, security personnel, or private investigator; or law enforcement agencies which screen persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase or possess a firearm shall submit two sets of fingerprints to the Missouri state highway patrol, Missouri criminal records repository, for the purpose of checking the person's criminal history. The first set of fingerprints shall be used to search the Missouri criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files if necessary. The fingerprints shall be submitted on forms and in the manner prescribed by the Missouri state highway patrol. Fees assessed for the searches shall be paid in the manner prescribed by the Missouri state highway patrol. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the record request.**

43.650. 1. The patrol shall, subject to appropriation, maintain a web page on the Internet

which shall be open to the public and shall include a registered sexual offender search capability.

2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in subdivisions (1) to (4) of subsection 4 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, RSMo, except that only persons who have been convicted of, found guilty of or plead guilty to committing or attempting to commit sexual offenses shall be included on this web site.

3. The registered sexual offender search shall include the capability to search for sexual offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address.

4. Only the information listed in subdivisions (1) to (4) of this subsection shall be provided to the public in the registered sexual offender search:

- (1) The name of the offender;
- (2) The last known address of the offender, including the street address, city, county, state, and zip code;
- (3) A photograph of the offender; and
- (4) The crime or crimes for which the offender was convicted that caused him or her to have to register.

195.505. 1. Any two or more political subdivisions or the state highway patrol and any one or more political subdivisions may by order or ordinance agree to cooperate with one another in the formation of a multijurisdictional enforcement group for the purpose of intensive professional investigation of **computer, internet-based**, narcotics and drug law violations.

2. The power of arrest of any peace officer who is duly authorized as a member of a MEG unit shall only be exercised during the time such peace officer is an active member of a MEG unit and only within the scope of the investigation on which the MEG unit is working. Notwithstanding other provisions of law to the contrary, such MEG officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of the municipality in which the arrest is to take place or the sheriff of the county if the arrest is to be made in his venue. If exigent circumstances exist, such arrest may be made; however, notification shall be made to the chief of police or sheriff, as appropriate, as soon as practical. The chief of police or sheriff may elect to work with the MEG unit at his option when such MEG is operating within the jurisdiction of such chief of police or sheriff.

210.903. 1. To protect children, the elderly, and disabled individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', and personal-care workers' background and on child-care, elder-care and personal-care

providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause findings of abuse and neglect pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

(3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, the department of mental health's employee disqualification registry;

(5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;

(6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259; [and]

(7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo; and

(8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

210.909. 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

(2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any conviction, plea of guilty or nolo contendere, or a suspended execution of sentence to a charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo; [and]

(6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo; and

(7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

210.922. The department **of health and senior services, department of mental health, and department of social services** may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198, **630**, and 660, RSMo.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit, a felony offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping, pursuant to section 565.110, RSMo; felonious restraint; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child, pursuant to section 568.060, RSMo; use of a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. "Part-time" in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of conviction,

release from incarceration, or placement upon probation, register with the chief law enforcement official of the county in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county within ten days of August 28, 2002. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town [or], village, **or campus** law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official.

The chief law enforcement official may forward a copy of such registration form to any city, town [or], village, **or campus** law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.407. Any registration pursuant to sections 589.400 to 589.425 shall consist of completion of an offender registration form developed by the Missouri state highway patrol. Such form shall include, but is not limited to the following:

(1) A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, the place of employment of such person, **enrollment within any institutions of higher education**, the crime which requires registration, whether the person was sentenced as a persistent or predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief description of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable; and

(2) The fingerprints and a photograph of the person.

589.414. 1. If any person required by sections 589.400 to 589.425 to register changes residence or address within the same county as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed.

2. If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county, the person shall appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law enforcement official of the county having jurisdiction over the new residence or address in writing within ten days, of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state of residence, the person shall appear in person and shall inform both the chief law enforcement official with whom the person was last registered and the chief law enforcement official of the area in the new state having jurisdiction over the new residence or address within ten days

of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county where the person was previously registered shall promptly inform the Missouri state highway patrol of the change. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall promptly inform the responsible official in the new state of residence.

3. Any person required by sections 589.400 to 589.425 to register who changes his or her enrollment or employment status with any institution of higher education within the state, by either beginning or ending such enrollment or employment, shall inform the chief law enforcement officer of such change within seven days after such change is made.

4. Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

[4.] **5.** In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall report in person to the county law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018, RSMo;

(2) Any offender who is registered for a crime where the victim was less than eighteen years of age at the time of the offense; and

(3) Any offender who has pled guilty or been found guilty pursuant to section 589.425 of failing to register or submitting false information when registering.

[5.] **6.** In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report annually in person in the month of their birth to the county law enforcement agency to verify the information contained in their statement made pursuant to section 589.407.

[6.] **7.** In addition to the requirements of subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state shall be required to report in person to the chief law enforcement officer in the area of the state where they work or attend school or training and register in that state. Part-time in this subsection means for more than fourteen days in any twelve-month period.

610.120. 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo. [They shall be available to] **The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, RSMo, criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess**

a firearm; those agencies authorized by section 43.543, RSMo, to submit and when submitting fingerprints to the central repository; the sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices[, and only to courts, law enforcement agencies, child care agencies,] in accordance with section 43.507, RSMo; to qualified entities for the purpose of screening providers defined in section 43.540, RSMo; the department of revenue for [driving record purposes, facilities as defined in section 198.006, RSMo, in-home services provider agencies as defined in section 660.250, RSMo,] driver license administration; the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo, department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and federal agencies for purposes of [prosecution, sentencing, parole consideration,] criminal justice administration, criminal justice employment, child, elderly, or disabled care [employment, nursing home employment], and [to federal agencies] for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available **only** for the [above] purposes [regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes.] **and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with section 43.509, RSMo.** All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

[2. As used in this section, the term "child care" includes providers and youth services agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.]

610.123. 1. Any person who wishes to have a record of arrest expunged pursuant to section 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection 4 of this section. The petition shall include the following information or shall be dismissed if the information is not given:

- (1) The petitioner's:
 - (a) Full name;
 - (b) Sex;

- (c) Race;
- (d) Date of birth;
- (e) Driver's license number;
- (f) Social Security number; and
- (g) Address at the time of the arrest;
- (2) The offense charged against the petitioner;
- (3) The date the petitioner was arrested;
- (4) The name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (5) The name of the agency that arrested the petitioner;
- (6) The case number and court of the offense;

(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition to expunge a record that will be forwarded to the central repository for the sole purpose of positively identifying the petitioner.

2. The petition shall name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state depositories of criminal records or others who the petitioner has reason to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action.

3. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition.

4. If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. A copy of the order shall be provided to each agency identified in the petition pursuant to subsection 2 of this section.

5. The supreme court shall promulgate rules establishing procedures for the handling of cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall be similar to the procedures established in chapter 482, RSMo, for the handling of small claims.

630.170. 1. A person **who is listed on the department of mental health disqualification registry pursuant to this section, who is listed on the department of social services or the department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, or who has been convicted of or pled guilty or nolo contendere to** any crime pursuant to section 630.155 or 630.160 shall be disqualified from holding any position in any public or private facility or day program operated, funded or licensed by the department or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632, RSMo.

2. A person **who has been convicted of or pled guilty or nolo contendere to** any felony offense

against persons as defined in chapter 565, RSMo; [of] any felony sexual offense as defined in chapter 566, RSMo; [of] any felony offense defined in section **568.020**, 568.045, 568.050, 568.060, 569.020, **569.025**, 569.030, **569.035**, 569.040 [or], 569.050, **569.070**, or **569.160**, RSMo, or of an equivalent felony offense, **or who has been convicted of or pled guilty or nolo contendere to any violation of subsection 3 of section 198.070, RSMo**, shall be disqualified from holding any direct-care position in any public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

3. **A person who has received a suspended imposition of sentence or a suspended execution of sentence following a plea of guilty to any of the disqualifying crimes listed in subsection 1 or 2 of this section shall remain disqualified.**

4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section may [appeal] **seek an exception to the disqualification [to] from** the director of the department or the director's designee. The request shall be written and may not be made more than once every twelve months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant [the appeal] **an exception** subject to any conditions deemed appropriate and failure to comply with such terms may result in the person again being disqualified. Decisions by the director or designee pursuant to the provisions of this subsection shall not be subject to appeal. The right to [appeal] **request an exception** pursuant to this subsection shall not apply to persons [convicted of] **who are disqualified due to being listed on the department of social services or department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, nor to persons disqualified from employment due to** any crime pursuant to the provisions of chapter 566 [or 568], RSMo, or section 565.020 [or], 565.021, **568.020, 568.060, 569.025, or 569.070, RSMo.**

5. **An applicant for a direct care position in any public or private facility, day program, residential facility, or specialized service operated, funded, or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, shall:**

(1) **Sign a consent form as required by section 43.540, RSMo, to provide written consent for a criminal record review;**

(2) **Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any suspended imposition of sentence, any suspended execution of sentence, or any period of probation or parole; and**

(3) **Disclose if the applicant is listed on the employee disqualification list as provided in**

section 660.315, RSMo, or the department of mental health disqualification registry as provided for in this section.

6. Any person who has received a good cause waiver issued by the division of senior services or its predecessor under subsection 9 of section 660.317, RSMo, shall not require an additional exception under this section in order to be employed in a long-term care facility licensed under chapter 198, RSMo.

7. Any public or private residential facility, day program, or specialized service licensed, certified, or funded by the department shall, not later than two working days after hiring any person for a full-time, part-time, or temporary position that will have contact with clients, residents, or patients:

(1) Request a criminal background check as provided in section 43.540, RSMo;

(2) Make an inquiry to the department of social services and department of health and senior services to determine whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo; and

(3) Make an inquiry to the department of mental health to determine whether the person is listed on the disqualification registry as provided in this section.

8. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider hires a person to hold a direct care position knowing that such person has been disqualified pursuant to the provisions of subsection 1 or 2 of this section.

[4.] 9. The department may maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified pursuant to this section, or who have had administrative substantiations made against them for abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from holding any position in any public or private facility or day program operated, funded or licensed by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

[43.521. Sections 43.500 to 43.530 shall not require fingerprinting of juvenile offenders or reporting of information pertaining to a proceeding pursuant to the Missouri juvenile code, except in those cases where a juvenile is certified to the circuit court to stand trial as an adult.]

[210.937. The provisions of sections 210.900 to 210.936 shall terminate on January 1, 2004.]