

SECOND REGULAR SESSION

SENATE BILL NO. 1103

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Read 1st time February 7, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4025S.021

AN ACT

To repeal sections 210.903, 210.906, 210.909, and 210.921, RSMo, and to enact in lieu thereof four new sections relating to the family care safety registry, with penalty provisions.

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

Section A. Sections 210.903, 210.906, 210.909, and 210.921, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 210.903, 210.906, 210.909, and 210.921, to read as follows:

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

6 2. The family care safety registry shall contain information on child-care
7 workers', elder-care workers', and personal-care workers' background and on
8 child-care, elder-care and personal-care providers through:

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

11 (2) Probable cause findings of abuse and neglect prior to August 28, 2004,
12 or findings of abuse and neglect by a preponderance of the evidence after August
13 28, 2004, pursuant to sections 210.109 to 210.183 and, as of January 1, 2003,
14 financial exploitation of the elderly or disabled, pursuant to section 570.145,
15 RSMo;

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

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

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

30 **(9) The integration of licensure and certification information**
31 **maintained by the department of insurance, financial institutions and**
32 **professional registration, the department of elementary and secondary**
33 **education, and any other relevant state agency maintaining licensure**
34 **and certification information.**

210.906. 1. Every child-care worker [or], elder-care worker [hired on or
2 after January 1, 2001], or personal-care worker [hired on or after January 1,
3 2002,] shall complete a registration form provided by the department. **All**
4 **employers of child-care, elder-care, or personal-care workers regulated**
5 **by, contracting with or who receive state or federal reimbursement for**
6 **services shall ensure such workers are registered.** The department shall
7 make such forms available [no later than January 1, 2001,] and may, by rule,
8 determine the specific content of such form, but every form shall:

9 (1) Request the valid Social Security number of the applicant;

10 (2) Include information on the person's right to appeal the information
11 contained in the registry pursuant to section 210.912;

12 (3) Contain the signed consent of the applicant for the background checks
13 required pursuant to this section; and

14 (4) Contain the signed consent for the release of information contained
15 in the background check for employment purposes only.

16 2. Every child-care worker [or], elder-care worker [hired on or after
17 January 1, 2001], and [every] personal-care worker [hired on or after January 1,
18 2002,] shall complete a registration form within fifteen days of the beginning of
19 such person's employment. Any person employed as a child-care, elder-care or
20 personal-care worker who fails to submit a completed registration form to the

21 department of health and senior services as required by sections 210.900 to
22 210.936 without good cause, as determined by the department, is guilty of a class
23 B misdemeanor.

24 3. The costs of the criminal background check may be paid by the
25 individual applicant, or by the provider if the applicant is so employed, or for
26 those applicants receiving public assistance, by the state through the terms of the
27 self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to
28 the patrol for the costs of the criminal background check shall be deposited to the
29 credit of the criminal record system fund as required by section 43.530, RSMo.

30 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be
31 automatically registered in the family care safety registry at no additional cost
32 other than the costs required pursuant to sections 210.481 to 210.565.

33 5. Any person not required to register pursuant to the provisions of
34 sections 210.900 to 210.936 may also be included in the registry if such person
35 voluntarily applies to the department for registration and meets the requirements
36 of this section and section 210.909, including submitting to the background checks
37 in subsection 1 of section 210.909.

38 6. The provisions of sections 210.900 to 210.936 shall not extend to related
39 child care, related elder care or related personal care.

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

4 (1) Determine if a probable cause finding of child abuse or neglect prior
5 to August 28, 2004, or a finding of child abuse or neglect by a preponderance of
6 the evidence after August 28, 2004, involving the applicant has been recorded
7 pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a
8 probable cause finding of financial exploitation of the elderly or disabled pursuant
9 to section 570.145, RSMo;

10 (2) Determine if the applicant has been refused licensure or has
11 experienced involuntary licensure suspension or revocation pursuant to section
12 210.496;

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

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

17 (5) Determine through a request to the patrol pursuant to section 43.540,
18 RSMo, whether the applicant has any criminal history record for a felony or

19 misdemeanor or any offense for which the person has registered pursuant to
20 sections 589.400 to 589.425, RSMo; and

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

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

28 **(8) Determine if the applicant has had a professional license or**
29 **certification revoked or disciplined.**

30 2. Upon completion of the background check described in subsection 1 of
31 this section, the department shall include information in the registry for each
32 registrant as to whether any convictions, employee disqualification listings,
33 registry listings, probable cause findings, pleas of guilty or nolo contendere, or
34 license denial, revocation or suspension have been documented through the
35 records checks authorized pursuant to the provisions of sections 210.900 to
36 210.936.

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

210.921. 1. The department shall not provide any registry information
2 pursuant to this section unless the department obtains the name and address of
3 the person calling, and determines that the inquiry is for employment purposes
4 only. For purposes of sections 210.900 to 210.936, "employment purposes"
5 includes direct employer-employee relationships, prospective employer-employee
6 relationships, and screening and interviewing of persons or facilities by those
7 persons contemplating the placement of an individual in a child-care, elder-care
8 or personal-care setting. **"Employment purposes" shall also include**
9 **screening and interviewing of unpaid volunteers by recreational or**
10 **voluntary associations contemplating the placement of an unpaid**
11 **volunteer in a child-care, elder-care, or personal-care setting.** Disclosure
12 of background information concerning a given applicant recorded by the
13 department in the registry shall be limited to:

14 (1) Confirming whether the individual is listed in the registry; [and]

15 (2) Indicating whether the individual has been listed or named in any of
16 the background checks listed in subsection 2 of section 210.903. If such
17 individual has been so listed, the department of health and senior services shall

18 only disclose the name of the background check in which the individual has been
19 identified. With the exception of any agency licensed by the state to provide child
20 care, elder care or personal care, **or any service provider certified,**
21 **contracted, or regulated by a state agency to provide child care, elder**
22 **care, or personal care,** which shall receive specific information immediately
23 if requested, any specific information related to such background check shall only
24 be disclosed after the department has received a signed request from the person
25 calling, with the person's name, address and reason for requesting the
26 information; **and**

27 **(3) The reporting of national criminal history information as**
28 **authorized under the federal Volunteers for Children Act, Public Law**
29 **105-251.**

30 2. Any person requesting registry information shall be informed that the
31 registry information provided pursuant to this section consists only of information
32 relative to the state of Missouri and does not include information from other
33 states or information that may be available from other states.

34 3. Any person who uses the information obtained from the registry for any
35 purpose other than that specifically provided for in sections 210.900 to 210.936
36 is guilty of a class B misdemeanor.

37 4. When any registry information is disclosed pursuant to subdivision (2)
38 of subsection 1 of this section, the department shall notify the registrant of the
39 name and address of the person making the inquiry.

40 5. The department of health and senior services staff providing
41 information pursuant to sections 210.900 to 210.936 shall have immunity from
42 any liability, civil or criminal, that otherwise might result by reason of such
43 actions; provided, however, any department of health and senior services staff
44 person who releases registry information in bad faith or with ill intent shall not
45 have immunity from any liability, civil or criminal. Any such person shall have
46 the same immunity with respect to participation in any judicial proceeding
47 resulting from the release of registry information. The department is prohibited
48 from selling the registry or any portion of the registry for any purpose including
49 "employment purposes" as defined in subsection 1 of this section.

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