

SECOND REGULAR SESSION

SENATE BILL NO. 873

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Read 1st time February 17, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5908S.011

AN ACT

To repeal sections 210.117, 210.482, 210.487, and 211.038, RSMo, and to enact in lieu thereof four new sections relating to background checks for the purposes of child placement.

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

Section A. Sections 210.117, 210.482, 210.487, and 211.038, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 210.117, 210.482, 210.487, and 211.038, to read as follows:

210.117. 1. A child taken into the custody of the state shall not be
2 reunited with a parent or placed in a home in which the parent or any person
3 residing in the home has been found guilty of, or pled guilty to, any of the
4 following offenses when a child was the victim:

5 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060,
6 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111,
7 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

8 (2) A violation of section 568.020;

9 (3) A violation of subdivision (2) of subsection 1 of section 568.060;

10 (4) A violation of section 568.065;

11 (5) A violation of section 568.080;

12 (6) A violation of section 568.090; [or]

13 (7) A violation of section 568.175; **or**

14 (8) **A violation of section 573.025, 573.035, 573.037, or a felony**
15 **violation of section 573.040.**

16 2. For all other violations of offenses in chapters 566 [and], 568, **and 573**
17 not specifically listed in subsection 1 of this section or for a violation of an offense

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

18 committed in another state when a child is the victim that would be a violation
19 of chapter 566 [or], 568, or 573, if committed in Missouri, the division may
20 exercise its discretion regarding the placement of a child taken into the custody
21 of the state in which a parent or any person residing in the home has been found
22 guilty of, or pled guilty to, any such offense.

23 3. In any case where the children's division determines based on a
24 substantiated report of child abuse that a child has abused another child, the
25 abusing child shall be prohibited from returning to or residing in any residence,
26 facility, or school within one thousand feet of the residence of the abused child or
27 any child care facility or school that the abused child attends, unless and until
28 a court of competent jurisdiction determines that the alleged abuse did not occur
29 or the abused child reaches the age of eighteen, whichever earlier occurs. The
30 provisions of this subsection shall not apply when the abusing child and the
31 abused child are siblings or children living in the same home.

32 4. **When conducting investigations of persons for the purpose of**
33 **child placement under this section, the division shall obtain**
34 **fingerprints for any person over the age of seventeen in the household**
35 **and for any child seventeen years of age or younger residing in the**
36 **home who the division has determined has been certified as an adult**
37 **for the commission of a crime in the same manner set forth in**
38 **subsection 2 of section 210.482. The fingerprints shall be used by the**
39 **highway patrol to search the criminal history repository and shall be**
40 **forwarded to the Federal Bureau of Investigation for searching the**
41 **federal criminal history files. The highway patrol shall assist the**
42 **division and provide the criminal fingerprint background information,**
43 **upon request.**

44 5. **Subject to appropriation, the total cost of fingerprinting**
45 **required by this section may be paid by the state, including**
46 **reimbursement of persons incurring fingerprinting costs under this**
47 **section.**

48 6. **The division may make arrangements with other executive**
49 **branch agencies to obtain any investigative background information.**

50 7. **The division may promulgate rules that are necessary to**
51 **implement the provisions of this section. Any rule or portion of a rule,**
52 **as that term is defined in section 536.010, that is created under the**
53 **authority delegated in this section shall become effective only if it**

54 **complies with and is subject to all of the provisions of chapter 536 and,**
55 **if applicable, section 536.028. This section and chapter 536 are**
56 **nonseverable and if any of the powers vested with the general assembly**
57 **pursuant to chapter 536 to review, to delay the effective date, or to**
58 **disapprove and annul a rule are subsequently held unconstitutional,**
59 **then the grant of rulemaking authority and any rule proposed or**
60 **adopted after August 28, 2014, shall be invalid and void.**

210.482. 1. If the emergency placement of a child in a private home is
2 necessary due to the unexpected absence of the child's parents, legal guardian,
3 or custodian, the juvenile court or children's division:

4 (1) May request that a local or state law enforcement agency or juvenile
5 officer, subject to any required federal authorization, immediately conduct a
6 name-based criminal history record check to include full orders of protection and
7 outstanding warrants of each person over the age of seventeen residing in the
8 home by using the Missouri uniform law enforcement system (MULES) and the
9 National Crime Information Center to access the Interstate Identification Index
10 maintained by the Federal Bureau of Investigation; and

11 (2) Shall determine or, in the case of the juvenile court, shall request the
12 division to determine whether any person over the age of seventeen years residing
13 in the home is listed on the child abuse and neglect registry. For any children
14 less than seventeen years of age residing in the home, the children's division
15 shall inquire of the person with whom an emergency placement of a child will be
16 made whether any children less than seventeen years of age residing in the home
17 have ever been certified as an adult and convicted of or pled guilty or nolo
18 contendere to any crime.

19 2. If a name-based search has been conducted pursuant to subsection 1
20 of this section, within fifteen calendar days after the emergency placement of the
21 child in the private home, and if the private home has not previously been
22 approved as a foster or adoptive home, all persons over the age of seventeen
23 residing in the home and all children less than seventeen residing in the home
24 who the division has determined have been certified as an adult for the
25 commission of a crime shall report to a local law enforcement agency for the
26 purpose of providing [three sets of] fingerprints [each] and accompanying fees,
27 pursuant to section 43.530. [One set of] **The** fingerprints shall be used by the
28 highway patrol to search the criminal history repository, [one set] shall be
29 forwarded to the Federal Bureau of Investigation for searching the federal

30 criminal history files, and [one set] shall be forwarded to and retained by the
31 division. Results of the checks shall be provided to the juvenile court or
32 children's division office requesting such information. Any child placed in
33 emergency placement in a private home shall be removed immediately if any
34 person residing in the home fails to provide fingerprints after being requested to
35 do so, unless the person refusing to provide fingerprints ceases to reside in the
36 private home.

37 3. If the placement of a child is denied as a result of a name-based
38 criminal history check and the denial is contested, all persons over the age of
39 seventeen residing in the home and all children less than seventeen years of age
40 residing in the home who the division has determined have been certified as an
41 adult for the commission of a crime shall, within fifteen calendar days, submit to
42 the juvenile court or the children's division [three sets of] fingerprints in the
43 same manner described in subsection 2 of this section, accompanying fees, and
44 written permission authorizing the juvenile court or the children's division to
45 forward the fingerprints to the state criminal record repository for submission to
46 the Federal Bureau of Investigation. [One set of] **The** fingerprints shall be used
47 by the highway patrol to search the criminal history repository, [one set] shall be
48 forwarded to the Federal Bureau of Investigation for searching the federal
49 criminal history files, and [one set] shall be retained by the division.

50 4. No person who submits fingerprints under this section shall be required
51 to submit additional fingerprints under this section or section 210.487 unless the
52 original fingerprints retained by the division are lost or destroyed.

53 5. Subject to appropriation, the total cost of fingerprinting required by
54 this section may be paid by the state, including reimbursement of persons
55 incurring fingerprinting costs under this section.

56 6. For the purposes of this section, "emergency placement" refers to those
57 limited instances when the juvenile court or children's division is placing a child
58 in the home of private individuals, including neighbors, friends, or relatives, as
59 a result of a sudden unavailability of the child's primary caretaker.

210.487. 1. When conducting investigations of persons for the purpose of
2 foster parent licensing, the division shall:

3 (1) Conduct a search for all persons over the age of seventeen in the
4 applicant's household and for any child less than seventeen years of age residing
5 in the applicant's home who the division has determined has been certified as an
6 adult for the commission of a crime for evidence of full orders of protection. The

7 office of state courts administrator shall allow access to the automated court
8 information system by the division. The clerk of each court contacted by the
9 division shall provide the division information within ten days of a request; and

10 (2) Obtain [three sets of] fingerprints for any person over the age of
11 seventeen in the applicant's household and for any child less than seventeen
12 years of age residing in the applicant's home who the division has determined has
13 been certified as an adult for the commission of a crime in the same manner set
14 forth in subsection 2 of section 210.482. [One set of] **The** fingerprints shall be
15 used by the highway patrol to search the criminal history repository, [one set]
16 shall be forwarded to the Federal Bureau of Investigation for searching the
17 federal criminal history files, and [one set] shall be forwarded to and retained by
18 the division. The highway patrol shall assist the division and provide the
19 criminal fingerprint background information, upon request; and

20 (3) Determine whether any person over the age of seventeen residing in
21 the home and any child less than seventeen years of age residing in the
22 applicant's home who the division has determined has been certified as an adult
23 for the commission of a crime is listed on the child abuse and neglect
24 registry. For any children less than seventeen years of age residing in the
25 applicant's home, the children's division shall inquire of the applicant whether
26 any children less than seventeen years of age residing in the home have ever been
27 certified as an adult and been convicted of or pled guilty or nolo contendere to
28 any crime.

29 2. After the initial investigation is completed under subsection 1 of this
30 section:

31 (1) No person who submits fingerprints under subsection 1 of this section
32 or section 210.482 shall be required to submit additional fingerprints under this
33 section or section 210.482 unless the original fingerprints retained by the division
34 are lost or destroyed; and

35 (2) The children's division and the department of health and senior
36 services may waive the requirement for a fingerprint background check for any
37 subsequent recertification.

38 3. Subject to appropriation, the total cost of fingerprinting required by
39 this section may be paid by the state, including reimbursement of persons
40 incurring fingerprinting costs under this section.

41 4. The division may make arrangements with other executive branch
42 agencies to obtain any investigative background information.

43 5. The division may promulgate rules that are necessary to implement the
44 provisions of this section. Any rule or portion of a rule, as that term is defined
45 in section 536.010, that is created under the authority delegated in this section
46 shall become effective only if it complies with and is subject to all of the
47 provisions of chapter 536 and, if applicable, section 536.028. This section and
48 chapter 536 are nonseverable and if any of the powers vested with the general
49 assembly pursuant to chapter 536 to review, to delay the effective date, or to
50 disapprove and annul a rule are subsequently held unconstitutional, then the
51 grant of rulemaking authority and any rule proposed or adopted after August 28,
52 2004, shall be invalid and void.

211.038. 1. A child under the jurisdiction of the juvenile court shall not
2 be reunited with a parent or placed in a home in which the parent or any person
3 residing in the home has been found guilty of, or pled guilty to, any of the
4 following offenses when a child was the victim:

5 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060,
6 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111,
7 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

8 (2) A violation of section 568.020;

9 (3) A violation of subdivision (2) of subsection 1 of section 568.060;

10 (4) A violation of section 568.065;

11 (5) A violation of section 568.080;

12 (6) A violation of section 568.090; [or]

13 (7) A violation of section 568.175; **or**

14 **(8) A violation of section 573.025, 573.035, 573.037, or a felony**
15 **violation of section 573.040.**

16 2. For all other violations of offenses in chapters 566 [and], 568, **and 573**
17 not specifically listed in subsection 1 of this section or for a violation of an offense
18 committed in another state when a child is the victim that would be a violation
19 of chapter 566 [or], 568, **or 573** if committed in Missouri, the juvenile court may
20 exercise its discretion regarding the placement of a child under the jurisdiction
21 of the juvenile court in a home in which a parent or any person residing in the
22 home has been found guilty of, or pled guilty to, any such offense.

23 3. If the juvenile court determines that a child has abused another child,
24 such abusing child shall be prohibited from returning to or residing in any
25 residence located within one thousand feet of the residence of the abused child,
26 or any child care facility or school that the abused child attends, until the abused

27 child reaches eighteen years of age. The prohibitions of this subsection shall not
28 apply where the alleged abuse occurred between siblings or children living in the
29 same home.

30 **4. When conducting investigations of persons for the purpose of**
31 **child placement under this section, the division shall obtain**
32 **fingerprints for any person over the age of seventeen in the household**
33 **and for any child seventeen years of age or younger residing in the**
34 **home who the division has determined has been certified as an adult**
35 **for the commission of a crime in the same manner set forth in**
36 **subsection 2 of section 210.482. The fingerprints shall be used by the**
37 **highway patrol to search the criminal history repository and shall be**
38 **forwarded to the Federal Bureau of Investigation for searching the**
39 **federal criminal history files. The highway patrol shall assist the**
40 **division and provide the criminal fingerprint background information,**
41 **upon request.**

42 **5. Subject to appropriation, the total cost of fingerprinting**
43 **required by this section may be paid by the state, including**
44 **reimbursement of persons incurring fingerprinting costs under this**
45 **section.**

46 **6. The division may make arrangements with other executive**
47 **branch agencies to obtain any investigative background information.**

48 **7. The division may promulgate rules that are necessary to**
49 **implement the provisions of this section. Any rule or portion of a rule,**
50 **as that term is defined in section 536.010, that is created under the**
51 **authority delegated in this section shall become effective only if it**
52 **complies with and is subject to all of the provisions of chapter 536 and,**
53 **if applicable, section 536.028. This section and chapter 536 are**
54 **nonseverable and if any of the powers vested with the general assembly**
55 **pursuant to chapter 536 to review, to delay the effective date, or to**
56 **disapprove and annul a rule are subsequently held unconstitutional,**
57 **then the grant of rulemaking authority and any rule proposed or**
58 **adopted after August 28, 2014, shall be invalid and void.**

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