

FIRST REGULAR SESSION

# HOUSE BILL NO. 1200

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES GRISAMORE (Sponsor), SATER, WOOD, WILSON (119), YATES, STREAM, ZERR, CURLS, SCHAAF, McCLANAHAN, STORCH, SCHAD, RUESTMAN, ATKINS, KIRKTON, LeVOTA, JONES (63), COOPER, DENISON AND SILVEY (Co-sponsors).

2452L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 210.900, 210.903, 210.906, and 210.921, RSMo, and to enact in lieu thereof four new sections relating to the family care safety registry, with penalty provisions.

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

Section A. Sections 210.900, 210.903, 210.906, and 210.921, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 210.900, 210.903, 210.906,  
3 and 210.921, to read as follows:

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the  
2 "Family Care Safety Act".

3 2. As used in sections 210.900 to 210.936, the following terms shall mean:

4 (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed  
5 or license-exempt child-care center, child-placing agency, residential care facility for children,  
6 group home, foster family group home, foster family home, employment agency that refers a  
7 child-care worker to parents or guardians as defined in section 289.005, RSMo. The term  
8 "child-care provider" does not include summer camps or voluntary associations designed  
9 primarily for recreational or educational purposes;

10 (2) "Child-care worker", any person who is employed by a child-care provider, or  
11 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as  
12 remuneration for child-care services;

13 (3) "Department", the department of health and senior services;

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.

14 (4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, or any  
15 person, corporation, or association who provides in-home services under contract with the  
16 division of aging, or any employer of nurses or nursing assistants of home health agencies  
17 licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants employed by  
18 a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a hospital for which  
19 subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

20 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who  
21 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as  
22 remuneration for elder-care services;

23 (6) "Employer", any child-care provider, elder-care provider, [or] personal-care provider,  
24 **mental health provider, or school district staff** as defined in this section;

25 (7) "Mental health provider", any mental retardation facility or group home as defined  
26 in section 633.005, RSMo;

27 (8) "Mental health worker", any person employed by a mental health provider to provide  
28 personal care services and supports;

29 (9) "Patrol", the Missouri state highway patrol;

30 (10) "Personal-care attendant" or "personal-care worker", a person who performs routine  
31 services or supports necessary for a person with a physical or mental disability to enter and  
32 maintain employment or to live independently;

33 (11) "Personal-care provider", any person, corporation, or association who provides  
34 personal-care services or supports under contract with the department of mental health, the  
35 division of aging, the department of health and senior services or the department of elementary  
36 and secondary education;

37 (12) "Related child care", child care provided only to a child or children by such child's  
38 or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence  
39 separate from the child or children;

40 (13) "Related elder care", care provided only to an elder by an adult child, a spouse, a  
41 grandchild, a great-grandchild or a sibling of such elder;

42 (14) **"School district staff", persons authorized to have contact with public school**  
43 **pupils, including but not limited to administrators, teachers, aides, paraprofessionals,**  
44 **assistants, secretaries, custodians, cooks, and nurses.**

210.903. 1. To protect children, the elderly, the disabled, including the developmentally,  
2 **physically, and cognitively** disabled individuals in this state, and to promote family and  
3 community safety by providing information concerning family caregivers, **and for the purpose**  
4 **of ensuring the comprehensive screenings of persons providing services to the state's most**  
5 **vulnerable citizens**, there is hereby established within the department of health and senior

6 services a "Family Care Safety Registry and Access Line" which shall be available by January  
7 1, 2001.

8           2. (1) **The state of Missouri shall utilize a portion of the moneys made available to**  
9 **the state through the federal American Recovery and Reinvestment Act of 2009, as enacted**  
10 **by the 111th United States Congress, or subject to appropriations, to provide the**  
11 **department of health and senior services with adequate funding to update and enhance the**  
12 **technological capabilities of the family care safety registry and implement an**  
13 **interdepartmental uniform infrastructure and procedure for the departments of public**  
14 **safety, social services, mental health, and elementary and secondary education to use for**  
15 **background screening results and to fund the processing of such results for employed**  
16 **individuals not currently registered with the family care safety registry. The department**  
17 **of health and senior services shall disburse moneys received to the departments of public**  
18 **safety, social services, mental health, and elementary and secondary education to allow**  
19 **appropriate interagency operability of systems in order to make the technological,**  
20 **administrative, and procedural adjustments needed for implementation.**

21           (2) **Upon submission by the departments of public safety, social services, mental**  
22 **health, and elementary and secondary education of an application for a background check**  
23 **to the highway patrol's criminal record check system under section 43.540, RSMo, for**  
24 **processing, the department of public safety shall submit all background checks to the**  
25 **family care safety registry. All criminal background checks conducted under this**  
26 **subsection shall include a federal and state search.**

27           3. (1) The family care safety registry shall contain information on **teachers, school**  
28 **employees with child contact**, child-care workers', elder-care workers', mental health workers',  
29 and personal-care workers' background and on child-care, elder-care, mental health, [and]  
30 personal-care providers, **and school district staff** through:

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

33           [(2)] (b) Probable cause findings of abuse and neglect prior to August 28, 2004, or  
34 findings of abuse and neglect by a preponderance of the evidence after August 28, 2004, pursuant  
35 to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly  
36 or disabled, pursuant to section 570.145, RSMo;

37           [(3)] (c) The [division of aging's] **department of health and senior services** employee  
38 disqualification list pursuant to section 660.315, RSMo;

39           [(4)] (d) As of January 1, 2003, the department of mental health's employee  
40 disqualification registry;

41            [(5)] (e) Foster parent licensure denials, revocations and involuntary suspensions  
42 pursuant to section 210.496;

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

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

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

49            (i) **The department of elementary and secondary education's employee**  
50 **disqualification registry; and**

51            (j) **School district staff disqualifications or denials issued by a school district as a**  
52 **result of information results obtained by a background check.**

53            (2) **If employed on or after January 1, 2011, individuals identified in this subsection**  
54 **and who undergo a criminal background check shall be required to register with the family**  
55 **care safety registry under sections 210.900 to 210.936 and be cleared through the registry**  
56 **database.**

57            4. **The contents of the family care safety registry shall be accessible to the**  
58 **departments and contracted agencies of public safety, social services, mental health, and**  
59 **elementary and secondary education, and school districts; except that, information in the**  
60 **registry which would constitute a violation of the federal Health Insurance Portability and**  
61 **Accountability Act of 1996, as amended, or the federal Family Educational Rights and**  
62 **Privacy Act, as amended, shall not be shared between departments.**

63            5. **The family care safety registry shall contain open and closed records available**  
64 **of persons maintained in the registry.**

65            6. **If an individual is denied employment based on results of a background**  
66 **screening reported by the family care safety registry, such individual may seek an appeal,**  
67 **if applicable, directly from the department that disqualified the individual's employment.**

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1,  
2 2001, or personal-care worker hired on or after January 1, 2002, or mental health worker hired  
3 on or after January 1, 2009, **or all current school district staff by January 1, 2011, and all**  
4 **school district staff hired on or after January 1, 2011,** shall complete a registration form  
5 provided by the department. The department shall make such forms available no later than  
6 January 1, 2001, and may, by rule, determine the specific content of such form, but every form  
7 shall:

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

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

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

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

15 2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and  
16 every personal-care worker hired on or after January 1, 2002, and every mental health worker  
17 hired on or after January 1, 2009, **and all current school district staff by January 1, 2011, and**  
18 **all school district staff hired on or after January 1, 2011**, shall complete a registration form  
19 within fifteen days of the beginning of such person's employment. Any person employed as a  
20 child-care, elder-care, mental health, [or] personal-care worker, **or school district staff** who fails  
21 to submit a completed registration form to the department of health and senior services as  
22 required by sections 210.900 to 210.936 without good cause, as determined by the department,  
23 is guilty of a class B misdemeanor.

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

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

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

37 6. **Except for individuals receiving state or federal funds for their services**, the  
38 provisions of sections 210.900 to 210.936 shall not extend to related child care, related elder care  
39 or related personal care.

210.921. 1. The department shall not provide any registry information pursuant to this  
2 section unless the department obtains the name and address of the person calling, and determines  
3 that the inquiry is for employment **or regulatory** purposes [only]. For purposes of sections  
4 210.900 to 210.936, "employment purposes" includes direct employer-employee relationships,  
5 prospective employer-employee relationships, and screening and interviewing of persons or

6 facilities by those persons contemplating the placement of an individual in a child-care,  
7 elder-care, mental health, [or] personal-care, **or school district** setting. Disclosure of  
8 background information concerning a given applicant recorded by the department in the registry  
9 shall be limited to:

10 (1) Confirming whether the individual is listed in the registry; and

11 (2) Indicating whether the individual has been listed or named in any of the background  
12 checks listed in subsection 2 of section 210.903. If such individual has been so listed, the  
13 department of health and senior services shall only disclose the name of the background check  
14 in which the individual has been identified. With the exception of any agency licensed or  
15 contracted by the state to provide child care, elder care, mental health services, or personal care  
16 which shall receive specific information immediately if requested, any specific information  
17 related to such background check shall only be disclosed after the department has received a  
18 signed request from the person calling, with the person's name, address and reason for requesting  
19 the information.

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

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

27 4. When any registry information is disclosed pursuant to subdivision (2) of subsection  
28 1 of this section, the department shall notify the registrant of the name and address of the person  
29 making the inquiry.

30 5. The department of health and senior services staff providing information pursuant to  
31 sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that  
32 otherwise might result by reason of such actions; provided, however, any department of health  
33 and senior services staff person who releases registry information in bad faith or with ill intent  
34 shall not have immunity from any liability, civil or criminal. Any such person shall have the  
35 same immunity with respect to participation in any judicial proceeding resulting from the release  
36 of registry information. The department is prohibited from selling the registry or any portion of  
37 the registry for any purpose including employment purposes as defined in subsection 1 of this  
38 section.

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