

CCS SS SCS HB 1350 -- CRIMINAL HISTORY RECORDS

This bill modifies several provisions relating to criminal history records.

DEFINITIONS

Currently, certain definitions relating to criminal history apply to criminal records and central repository provisions of law. This bill applies such definitions to provisions relating to the statewide law enforcement emergency hotline and the sex offender registry.

This bill also adds that the "administration of criminal justice" shall include the screening of employees or applicants seeking employment with criminal justice agencies.

Currently, "central repository" is defined as the division within the Missouri State Highway Patrol that is responsible, in part, for compiling, maintaining, and disseminating criminal incident and arrest reports. This bill repeals this responsibility of the division (Sections 43.500 to 43.530 and 610.120, RSMo).

DRUG TREATMENT COURTS

Currently, sheriffs and circuit court judges may make available criminal history information obtained from the central repository to private entities responsible for probation supervision. This bill also allows such information to be made available to private entities providing services associated with drug treatment courts (Section 43.504).

LAW ENFORCEMENT AGENCIES

Currently, law enforcement agencies may perform a Missouri criminal record review through the MULES system for only open records for purposes of hiring municipal or county governmental employees. This bill requires such requests go through the central repository's automated criminal history system (Section 43.535).

CRIMINAL RECORD REVIEWS

Currently, certain entities may request a Missouri criminal record review through the Missouri State Highway Patrol, or a Missouri and national criminal record review through an authorized state agency. This bill repeals these provisions.

This bill allows the central repository to have the authority to submit an applicant's fingerprints, as defined in this bill, to the

National Rap Back program to be retained for the purpose of being searched against future submissions. Further, this bill allows certain qualified entities to conduct Missouri and national criminal record reviews on applicants, and participate in the Missouri and National Rap Back programs for the purpose of determining suitability or fitness for a permit, license, or employment. The Missouri Rap Back program shall include an automatic notification made by the Missouri State Highway Patrol to an entity indicating that the applicant has been arrested for a criminal offense in Missouri. The National Rap Back program shall include an automatic notification made by the Federal Bureau of Investigation through the Missouri State Highway Patrol to an entity that an applicant has been arrested for a criminal offense outside of Missouri. This bill specifies that the participation in the criminal record review and Rap Back process shall be voluntary, and any Rap Back notification received by an entity shall allow them to receive an individual's updated criminal history record under certain conditions.

The entities that may request such criminal record reviews include any office or division of the state, county, or municipal government that issues or renews licenses, permits, certifications, or registrations; any such entity that makes fitness determinations on applications for employment for government employees; any entity that screens persons seeking issuance or renewal of a license or permit or to purchase a firearm; or any entity that is authorized to conduct fingerprint background checks under federal law.

In order to conduct such criminal record reviews, the entity shall abide by certain requirements, including registering with the Missouri State Highway Patrol; notifying applicants that such applicant's fingerprints will be retained by the central repository, the Federal Bureau of Investigation, and the National Rap Back program, if enrolled; and notifying any applicant of his or her right to obtain a copy of any criminal record review and his or her ability to challenge the accuracy of such information. Further, the entity shall submit a request for screening on applicant using a completed fingerprint card, along with a fee. Upon submission, the Missouri State Highway Patrol shall provide to the entity the applicant's criminal history records. A decision concerning the applicant's fitness based upon his or her criminal history record shall be made by the entity. Failure to obtain an applicant's information as authorized under this bill shall not be used as evidence in any negligence action against an entity.

The bill specifies that any criminal record review shall include the submission of fingerprints to the Missouri State Highway Patrol, which shall conduct a review and also forward such fingerprints to the Federal Bureau of Investigation. Further, any

applicant subject to such review shall provide certain information to the entity as specified in this bill (Section 43.540).

FINGERPRINTING

Currently, two sets of fingerprints are required for the purpose of checking a person's criminal history. This bill repeals this requirement (Sections 43.543, 192.2495, 210.482, 210.487, 302.060, and 313.810).

BACKGROUND CHECKS FOR IN-HOME SERVICE PROVIDERS

Currently, in-home service providers and home health agencies are guilty of a class A misdemeanor if they employ a person to provide services to patients who is listed on any of the background checklists in the Family Care Safety Registry. This bill repeals that provision and provides that such entities shall be guilty of a class A misdemeanor if they employ a person who is guilty or has pleaded guilty or nolo contendere to certain offenses, is on the Department of Health and Senior Services' employee disqualification list or the Department of Mental Health's employee disqualification registry, or has a finding on the child abuse and neglect registry. Additionally, no state or federal financial assistance shall be available to pay for personal care assistance services if the personal care attendant has not undergone this background check process or if the personal care attendant has a disqualifying finding under this bill (Sections 192.2495 and 208.909).

BACKGROUND CHECKS FOR CHILD CARE PROVIDERS

This bill modifies existing law regarding background checks for child care providers receiving federal or state funds for providing child care services. An applicant provider, persons employed by the provider, and other individuals and volunteers involved in caring for children for the provider or who are 17 or older and reside in the provider's child care home shall be required to submit to a background check prior to the application's approval and every five years thereafter, as well as submit to an annual check of the central registry for child abuse.

Prior to employment in a family child care home, a group child care home, a child care center, or a license-exempt child care facility, the child care provider shall request the results of a criminal background check for the individual from the Department of Health and Senior Services. Prospective staff members may begin working as soon as the background check has been requested, but shall be supervised at all times. Current staff members shall have background checks performed by January 31, 2019. A staff member shall be ineligible for employment or adult household member shall

be ineligible to stay in a family child care home if the staff member or household member refuses to consent to the background check, knowingly makes a false statement in connection with the check, is registered or required to be registered as a sex offender, has a finding of child abuse and neglect, or has been convicted of certain felonies or violent misdemeanors.

A child care provider shall not be required to submit a request for a criminal background check if the staff member has received such a check within the past five years while employed with a Missouri child care provider and the Department of Health and Senior Services provided the results of the check to that provider.

The department shall process the background check request as soon as possible, but not to exceed 45 days following the request. The department shall provide the child care provider information on the staff member or adult household member's eligibility, but shall not reveal to the provider any information on the reason for disqualification. However, the department shall provide such reason for disqualification to the staff member or adult household member, as well as include information about the process to appeal the department's decision.

Additionally, this bill requires license-exempt religious child care facilities to comply with the background check provisions under this bill. However, the background check requirement shall not apply to any child care facility maintained or operated under the exclusive control of a religious organization that receives no federal funds, except funds received as a result of the Child and Adult Care Food Program, for providing care for children.

Finally, the background check requirements shall expire upon the repeal of the associated provisions of the Child Care and Development Block Grant Act of 2014 and associated regulations, or when Missouri no longer receives federal funds from the grant (Sections 210.025, 210.254, 210.258, and 210.1080).