

FIRST REGULAR SESSION

# HOUSE BILL NO. 1103

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GREEN.

2185H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapters 43 and 610, RSMo, by adding thereto eight new sections relating to limited access to certain criminal records.

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

Section A. Chapters 43 and 610, RSMo, are amended by adding thereto eight new sections, to be known as sections 43.508, 610.078, 610.080, 610.082, 610.084, 610.086, 610.088, and 610.090, to read as follows:

**43.508. 1. Except as provided in subsection 2 of this section and notwithstanding any other provision of law, prior to the dissemination of criminal history information to a noncriminal justice agency, all information relating to a conviction, and the arrest, indictment, or other information leading thereto, that is the subject of a court order for limited access as provided in section 610.078 or all information relating to a conviction or nonconviction final disposition, and the arrest, indictment, or other information leading to the arrest or indictment, that is subject to a court order for limited access as provided for in section 610.080 shall be omitted.**

**2. Subsection 1 of this section shall not apply if the request is made under a court order:**

**(1) In a case for child custody or protection from abuse; or**

**(2) By an employer against whom a claim of civil liability has been brought, as described under section 610.088, for purposes of defending against a claim of civil liability.**

**3. Subsection 1 of this section shall not apply:**

**(1) To the verification of information provided by an applicant if federal law, including rules and regulations promulgated by a self-regulatory organization that has**

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.

17 been created under federal law, requires the consideration of an applicant's criminal  
18 history for purposes of employment; or

19 (2) To the verification of information provided to the supreme court, or an entity  
20 of the supreme court, in its capacity to govern the practice, procedure, and conduct of all  
21 courts, the admission to the bar, the practice of law, the administration of all courts, and  
22 supervision of all officers of the judicial branch.

610.078. 1. Subject to the exceptions in subsection 2 of this section and  
2 notwithstanding any other provision of law, upon petition of a person who has been free  
3 from conviction for a period of ten years for an offense punishable by one or more years  
4 in prison and has completed each court-ordered financial obligation of the sentence, the  
5 court where the conviction occurred may enter an order that criminal history record  
6 information maintained by a criminal justice agency pertaining to a qualifying offense that  
7 carries a maximum penalty of no more than five years be disseminated only to a criminal  
8 justice agency; upon its request, to the department of social services in the performance of  
9 duties relating to children and youth; or as provided in subsections 2 and 3 of section  
10 43.508.

11 2. An order for limited access under subsection 1 of this section shall not be granted  
12 for any of the following:

13 (1) A conviction for an offense punishable by more than two years in prison that  
14 is any of the following or an attempt or a conspiracy or solicitation to commit any of the  
15 following:

16 (a) An offense involving murder or manslaughter, infanticide, assault, or  
17 kidnapping under chapter 565;

18 (b) Any offense under chapter 566;

19 (c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking  
20 in children under chapter 568; or

21 (d) An offense involving a firearm or other dangerous weapon under chapter 571;  
22 or

23 (2) An individual who:

24 (a) Has been convicted of murder, any felony in the first degree, or an offense  
25 punishable by imprisonment of twenty years or more;

26 (b) Has been convicted within the previous twenty years of:

27 a. A felony or an offense punishable by imprisonment of seven or more years  
28 involving:

29 (i) An offense involving murder or manslaughter, infanticide, assault, or  
30 kidnapping under chapter 565;

- 31           (ii) Any offense under chapter 566;
- 32           (iii) An offense of bigamy, incest, endangering the welfare of a child, or trafficking
- 33 in children under chapter 568; or
- 34           (iv) An offense involving a firearm or other dangerous weapon under chapter 571;
- 35 or
- 36           b. Four or more offenses punishable by imprisonment of two or more years; or
- 37           (c) Has been convicted within the previous fifteen years of:
- 38           a. Two or more offenses punishable by more than two years in prison; or
- 39           b. Any sexual offense under chapter 566.

**610.080. 1. The following shall be subject to limited access:**

- 2           (1) Subject to the exceptions under section 610.082 or if a court has vacated an
- 3 order for limited access under section 610.084, criminal history record information
- 4 pertaining to a conviction of a nonviolent offense or a nonsexual offense if a person has
- 5 been free from conviction for ten years for any offense punishable by imprisonment of one
- 6 or more years and if completion of each court-ordered financial obligation of the sentence
- 7 has occurred; or
- 8           (2) Criminal history record information pertaining to charges that resulted in a
- 9 final disposition other than a conviction.
- 10           2. (1) On a monthly basis, the Missouri office of state courts administrator shall
- 11 transmit to the Missouri state highway patrol's central repository the record of any
- 12 conviction eligible for limited access under subdivision (1) of subsection 1 of this section.
- 13           (2) The office of state courts administrator shall transmit to the Missouri state
- 14 highway patrol's central repository the record of charges subject to limited access under
- 15 subdivision (2) of subsection 1 of this section within thirty days after entry of the
- 16 disposition and payment of each court-ordered financial obligation.
- 17           (3) If the Missouri state highway patrol's central repository determines through a
- 18 validation process that a record transmitted is not eligible for limited access relief under
- 19 subsection 1 of this section or does not match data held in the central repository, the
- 20 Missouri state highway patrol shall notify the office of state courts administrator of such
- 21 determination within thirty days of receiving the information.
- 22           (4) Upon the expiration of the thirty-day period under subdivision (3) of this
- 23 subsection, the office of state courts administrator shall remove from the list of eligible
- 24 records any record for which the office of state courts administrator received a notification
- 25 of ineligibility or nonmatch with central repository data.

26           **(5) Monthly, each court shall issue an order for limited access for any record in its**  
27 **judicial circuit for which no notification of ineligibility was received by the office of state**  
28 **courts administrator.**

29           **3. A criminal history record that is the subject of an order for limited access under**  
30 **this section shall be made available to a noncriminal justice agency only as provided in**  
31 **subsections 2 and 3 of section 43.508 or, upon request, to the department of social services**  
32 **in the performance of duties relating to children and youth.**

**610.082. 1. Limited access to records under subdivision (1) of subsection 1 of**  
2 **section 610.080 shall not be granted for any of the following:**

3           **(1) A conviction for any of the following or an attempt, conspiracy, or solicitation**  
4 **to commit any of the following:**

5           **(a) An offense involving murder or manslaughter, infanticide, assault, or**  
6 **kidnapping under chapter 565;**

7           **(b) Any offense under chapter 566;**

8           **(c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking**  
9 **in children under chapter 568;**

10          **(d) An offense involving a firearm or other dangerous weapon under chapter 571;**  
11 **or**

12          **(e) An offense of animal abuse or neglect under chapter 578; or**

13          **(2) An individual who, at any time, has been convicted of:**

14           **(a) A felony;**

15           **(b) Two or more offenses punishable by imprisonment of more than two years; or**

16           **(c) Four or more offenses punishable by imprisonment of one or more years.**

17          **2. Limited access under this section shall not apply to an otherwise qualifying**  
18 **conviction if a conviction for an offense punishable by imprisonment of five or more years**  
19 **or an offense enumerated in subsection 1 of this section arose out of the same case.**

20          **3. Nothing in this section shall preclude the filing of a petition for limited access**  
21 **under section 610.078 if limited access is available under that section.**

**610.084. 1. Upon petition of the prosecuting attorney to the court where a**  
2 **conviction occurred, and with notice to the defendant and opportunity to be heard, the**  
3 **court shall vacate an order for limited access granted under section 610.080 if the court**  
4 **determines that the order was erroneously entered and not in accordance with section**  
5 **610.080.**

6           **2. Upon conviction of a defendant of a misdemeanor or felony offense and upon a**  
7 **filing of a motion by the prosecuting attorney, the court shall enter an order vacating any**

8 prior order for limited access pertaining to a record of the defendant, except under  
9 subdivision (2) of subsection 1 of section 610.080.

10 3. An order under subsection 1 or 2 of this section shall be transmitted to the  
11 central repository of the Missouri state highway patrol.

610.086. 1. (1) Except if requested or required by a criminal justice agency, or if  
2 disclosure to noncriminal justice agencies is authorized or required by section 43.508, an  
3 individual shall not be required or requested to disclose information about the individual's  
4 criminal history record that has been provided limited access under section 610.078 or  
5 section 610.080. An individual required or requested to provide information in violation  
6 of this section may respond as if the offense did not occur.

7 (2) This subsection shall not apply if federal law, including rules and regulations  
8 promulgated by a self-regulatory organization that has been created under federal law,  
9 requires the consideration of an applicant's criminal history for purposes of employment.

10 2. A record subject to limited access under section 610.078 or 610.080 shall not be  
11 considered a conviction that would prohibit the employment of a person under any law of  
12 this state or under federal laws that prohibit employment based on state convictions to the  
13 extent permitted by federal law.

610.088. An employer who employs or otherwise engages an individual whose  
2 criminal history record to which limited access has been applied under section 610.078 or  
3 610.080 shall be immune from liability for any claim arising out of the misconduct of the  
4 individual if the misconduct relates to the portion of the criminal history record that has  
5 been provided limited access.

610.090. The official records pertaining to a case in which limited access has been  
2 granted under section 610.078 or 610.080 shall be considered closed records.

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