

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 189

100TH GENERAL ASSEMBLY

0180H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 311.060, 311.660, and 313.220, RSMo, and to enact in lieu thereof thirteen new sections relating to activities extended to persons found guilty of certain criminal offenses.

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

Section A. Sections 311.060, 311.660, and 313.220, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 43.508, 217.930, 221.125, 311.060, 311.660, 313.220, 610.078, 610.080, 610.082,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:

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.

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

217.930. 1. (1) Medical assistance under MO HealthNet shall be suspended, rather
2 **than cancelled or terminated, for a person who is an offender in a correctional center if:**

3 **(a) The department of social services is notified of the person's entry into the**
4 **correctional center;**

5 **(b) On the date of entry, the person was enrolled in the MO HealthNet program;**
6 **and**

7 **(c) The person is eligible for MO HealthNet except for institutional status.**

8 **(2) A suspension under this subsection shall end on the date the person is no longer**
9 **an offender in a correctional center.**

10 **(3) Upon release from incarceration, such person shall continue to be eligible for**
11 **receipt of MO HealthNet benefits until such time as the person is otherwise determined to**
12 **no longer be eligible for the program.**

13 **2. The department of corrections shall notify the department of social services:**

14 **(1) Within twenty days after receiving information that a person receiving benefits**
15 **under MO HealthNet is or will be an offender in a correctional center; and**

16 **(2) Within forty-five days prior to the release of a person who is qualified for**
17 **suspension under subsection 1 of this section.**

221.125. 1. (1) Medical assistance under MO HealthNet shall be suspended, rather
2 **than cancelled or terminated, for a person who is an offender in a county jail, a city jail,**
3 **or a private jail if:**

4 **(a) The department of social services is notified of the person's entry into the jail;**

5 **(b) On the date of entry, the person was enrolled in the MO HealthNet program;**

6 **and**

7 **(c) The person is eligible for MO HealthNet except for institutional status.**

8 **(2) A suspension under this subsection shall end on the date the person is no longer**
9 **an offender in a jail.**

10 **(3) Upon release from incarceration, such person shall continue to be eligible for**
11 **receipt of MO HealthNet benefits until such time as the person is otherwise determined to**
12 **no longer be eligible for the program.**

13 **2. City, county, and private jails shall notify the department of social services**
14 **within ten days after receiving information that a person receiving medical assistance**
15 **under MO HealthNet is or will be an offender in the jail.**

 311.060. 1. No person shall be granted a license hereunder unless such person is of good
2 moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or
3 village, nor shall any corporation be granted a license hereunder unless the managing officer of
4 such corporation is of good moral character and a qualified legal voter and taxpaying citizen of
5 the county, town, city or village; and, except as otherwise provided under subsection 7 of this
6 section, no person shall be granted a license or permit hereunder whose license as such dealer
7 has been revoked, or who has been convicted, since the ratification of the twenty-first
8 amendment to the Constitution of the United States, of a violation of the provisions of any law
9 applicable to the manufacture or sale of intoxicating liquor, or who employs in his or her
10 business as such dealer any person whose license has been revoked unless five years have passed
11 since the revocation as provided under subsection 6 of this section, or who has been convicted
12 of violating such law since the date aforesaid; provided, that nothing in this section contained
13 shall prevent the issuance of licenses to nonresidents of Missouri or foreign corporations for the
14 privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating
15 liquors to, by or through a duly licensed wholesaler, within this state.

16 2. (1) No person, partnership or corporation shall be qualified for a license under this
17 law if such person, any member of such partnership, or such corporation, or any officer, director,
18 or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of
19 the stock of such corporation, or other financial interest therein, or ten percent or more of the
20 interest in the business for which the person, partnership or corporation is licensed, or any person
21 employed in the business licensed under this law shall have had a license revoked under this law
22 except as otherwise provided under subsections 6 and 7 of this section, or shall have been
23 convicted of violating the provisions of any law applicable to the manufacture or sale of
24 intoxicating liquor since the ratification of the twenty-first amendment to the Constitution of the
25 United States, or shall not be a person of good moral character.

26 (2) No license issued under this chapter shall be denied, suspended, revoked or otherwise
27 affected based solely on the fact that an employee of the licensee has been convicted of a felony
28 unrelated to the manufacture or sale of intoxicating liquor. ~~[Each employer shall report the~~
29 ~~identity of any employee convicted of a felony to the division of liquor control.]~~ The division
30 of liquor control shall promulgate rules to enforce the provisions of this subdivision.

31 (3) No wholesaler license shall be issued to a corporation for the sale of intoxicating
32 liquor containing alcohol in excess of five percent by weight, except to a resident corporation
33 as defined in this section.

34 3. A "resident corporation" is defined to be a corporation incorporated under the laws
35 of this state, all the officers and directors of which, and all the stockholders, who legally and
36 beneficially own or control sixty percent or more of the stock in amount and in voting rights,
37 shall be qualified legal voters and taxpaying citizens of the county and municipality in which
38 they reside and who shall have been bona fide residents of the state for a period of three years
39 continuously immediately prior to the date of filing of application for a license, provided that a
40 stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall
41 own, legally and beneficially, at least sixty percent of all the financial interest in the business to
42 be licensed under this law; provided, that no corporation, licensed under the provisions of this
43 law on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed
44 on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of
45 Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new
46 requirements herein, except corporations engaged in the manufacture of alcoholic beverages
47 containing alcohol in excess of five percent by weight, or owned or controlled, directly or
48 indirectly, by nonresident persons, partnerships or corporations engaged in the manufacture of
49 alcoholic beverages containing alcohol in excess of five percent by weight.

50 4. The term "financial interest" as used in this chapter is defined to mean all interest,
51 legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such
52 interest in the net profits of the enterprise, after the payment of reasonable and necessary
53 operating business expenses and taxes, including interest in dividends, preferred dividends,
54 interest and profits, directly or indirectly paid as compensation for, or in consideration of interest
55 in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned
56 or otherwise made available to the enterprise, except by way of ordinary commercial credit or
57 bona fide bank credit not in excess of credit customarily granted by banking institutions, whether
58 paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any
59 other form whatsoever.

60 5. The supervisor shall by regulation require all applicants for licenses to file written
61 statements, under oath, containing the information reasonably required to administer this section.
62 Statements by applicants for licenses as wholesalers and retailers shall set out, with other
63 information required, full information concerning the residence of all persons financially
64 interested in the business to be licensed as required by regulation. All material changes in the
65 information filed shall be promptly reported to the supervisor.

66 6. Any person whose license or permit issued under this chapter has been revoked shall
67 be automatically eligible to work as an employee of an establishment holding a license or permit
68 under this chapter five years after the date of the revocation.

69 7. Any person whose license or permit issued under this chapter has been revoked shall
70 be eligible to apply and be qualified for a new license or permit five years after the date of the
71 revocation. The person may be issued a new license or permit at the discretion of the division
72 of alcohol and tobacco control. If the division denies the request for a new permit or license, the
73 person may not submit a new application for five years from the date of the denial. If the
74 application is approved, the person shall pay all fees required by law for the license or permit.
75 Any person whose request for a new license or permit is denied may seek a determination by the
76 administrative hearing commission as provided under section 311.691.

 311.660. 1. The supervisor of liquor control shall have the authority to suspend or
2 revoke for cause all such licenses; and to make the following regulations, without limiting the
3 generality of provisions empowering the supervisor of liquor control as in this chapter set forth
4 as to the following matters, acts and things:

5 (1) Fix and determine the nature, form and capacity of all packages used for containing
6 intoxicating liquor of any kind, to be kept or sold under this law;

7 (2) Prescribe an official seal and label and determine the manner in which such seal or
8 label shall be attached to every package of intoxicating liquor so sold under this law; this
9 includes prescribing different official seals or different labels for the different classes, varieties
10 or brands of intoxicating liquor;

11 (3) Prescribe all forms, applications and licenses and such other forms as are necessary
12 to carry out the provisions of this chapter, except that when a licensee substantially complies
13 with all requirements for the renewal of a license by the date on which the application for
14 renewal is due, such licensee shall be permitted at least an additional ten days from the date
15 notice is sent that the application is deficient, in which to complete the application;

16 (4) Prescribe the terms and conditions of the licenses issued and granted under this law;

17 (5) Prescribe the nature of the proof to be furnished and conditions to be observed in the
18 issuance of duplicate licenses, in lieu of those lost or destroyed;

19 (6) Establish rules and regulations for the conduct of the business carried on by each
20 specific licensee under the license, and such rules and regulations if not obeyed by every licensee
21 shall be grounds for the revocation or suspension of the license;

22 (7) The right to examine books, records and papers of each licensee and to hear and
23 determine complaints against any licensee;

24 (8) To issue subpoenas and all necessary processes and require the production of papers,
25 to administer oaths and to take testimony;

26 (9) Prescribe all forms of labels to be affixed to all packages containing intoxicating
27 liquor of any kind; and

28 (10) To make such other rules and regulations as are necessary and feasible for carrying
29 out the provisions of this chapter, as are not inconsistent with this law.

30 **2. Notwithstanding subsection 1 of this section, the supervisor of liquor control**
31 **shall not prohibit persons from participating in the sale of intoxicating liquor within the**
32 **scope of their employment solely on the basis of being found guilty of any felony offense,**
33 **except for prohibitions set forth in sections 311.191 and 311.193.**

313.220. 1. The commission shall promulgate such rules and regulations governing the
2 establishment and operation of a state lottery as it deems necessary and desirable to fully
3 implement the mandate of the people expressed in the approval of the lottery amendment to
4 Article III of the Missouri Constitution. Such rules and regulations shall be designed so that a
5 lottery may be initiated at the earliest feasible and practicable time. No rule or portion of a rule
6 promulgated under the authority of this chapter shall become effective unless it has been
7 promulgated pursuant to the provisions of section 536.024.

8 2. The commission shall have the authority to require a fingerprint background check
9 on any person seeking employment or employed by the commission, any person seeking contract
10 with or contracted to the commission and any person seeking license from or licensed by the
11 commission. The background check shall include a check of the Missouri criminal records
12 repository and when the commission deems it necessary to perform a nationwide criminal history
13 check, a check of the Federal Bureau of Investigation's criminal records file. Fingerprints shall
14 be submitted to the Missouri criminal records repository as required. Notwithstanding the
15 provisions of section 610.120, the commission shall have access to closed criminal history
16 information when fingerprints are submitted. **The commission shall not prohibit a person**
17 **from participating in the sale of lottery tickets solely on the basis of the person being found**
18 **guilty of any criminal offense; except that, the person shall not be eligible to be a licensed**
19 **lottery game retailer under subsection 2 of section 313.260.**

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 five 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 five 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 for
31 in subsections 2 and 3 of section 43.508 or, upon request, to the department of social
32 services 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.**

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

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

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