

FIRST REGULAR SESSION

SENATE BILL NO. 179

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SATER.

Pre-filed December 31, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1095S.02I

AN ACT

To amend chapter 650, RSMo, by adding thereto seven new sections relating to the Missouri child protection registry, with penalty provisions and an effective date.

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

Section A. Chapter 650, RSMo, is amended by adding thereto seven new sections, to be known as sections 650.700, 650.705, 650.710, 650.715, 650.720, 650.725, and 650.730, to read as follows:

650.700. Sections 650.700 to 650.730 may be known and cited as the "Missouri Child Protection Registry Act".

650.705. As used in sections 650.700 to 650.730, the following terms shall mean:

(1) "Contact point", any electronic identification to which messages can be sent, including any of the following:

(a) An instant message identity;

(b) A wireless telephone, a personal digital assistant, a pager number, or any other similar wireless communications device;

(c) A facsimile number;

(d) An electronic mail address; or

(e) Other electronic addresses subject to rules promulgated by the department;

(2) "Controlled substance", the same as defined in section 195.010;

(3) "Department", the Missouri department of public safety;

(4) "Gambling", the same as defined in section 572.010;

(5) "Internet domain name", a globally unique, hierarchical reference to an internet host or service assigned through centralized internet authorities, comprising of a series of character strings

18 separated by periods with the right-most string specifying the top of
19 the hierarchy;

20 (6) "Intoxicating liquor", the same as defined in section 311.020;

21 (7) "Minor", an individual under the age of eighteen years;

22 (8) "Person", an individual, corporation, association, partnership,
23 or any other legal entity;

24 (9) "Pornographic for minors", the same as defined in section
25 573.010;

26 (10) "Registry", the Missouri child protection registry established
27 in section 650.710;

28 (11) "Tobacco product", the same as defined in section 149.011;

29 (12) "Vapor product", the same as defined in section 407.925.

650.710. 1. The department shall establish and operate, or
2 contract with a qualified third party to establish and operate, the
3 Missouri child protection registry composed of a secure list of contact
4 points belonging or accessible to minors received pursuant to this
5 section. The department or a third party administrator shall establish
6 procedures to prevent the use or disclosure of protected contact points.
7 If the department elects to contract with a third party, the department
8 shall give due consideration to any person located in this state. By
9 April 1, 2016, the department or the vendor providing registry services
10 for the department, shall conduct a third-party audit to certify the
11 security of the registry. Follow-up third party audits on the registry
12 systems shall be conducted at least annually. If the third-party security
13 audit determines the registry does not meet or exceed the industry
14 standard for high-security systems, the registry shall be suspended
15 until the security systems are determined to meet this standard.

16 2. A parent, guardian, individual, school, or other institution or
17 entity primarily serving minor children who are responsible for one or
18 more contact points to which a minor may have access, may register
19 such contact points with the department. Schools or other institutions
20 or entities primarily serving minor children may make one registration
21 for all contact points of the entity, and such registration may include
22 the entity's internet domain name. No fee or charge shall be assessed
23 or incurred by a person, guardian, individual, school, or other
24 institution or entity primarily serving minor children registering a
25 contact point under sections 650.700 to 650.730.

26 **3. A registration under this section shall be for not more than**
27 **three years. If the contact point is established for a specific minor, the**
28 **registration shall expire the year the minor turns eighteen years of age.**
29 **A registration can be revoked or renewed by the registrant upon**
30 **notification to the department.**

31 **4. The registry created under this section and the information**
32 **submitted to the department or to the attorney general shall be**
33 **confidential and not subject to public disclosure.**

650.715. 1. Notwithstanding subsection 4 of this section, a person
2 **shall not send, cause to be sent, or conspire with a third party to send**
3 **a message to a contact point that has been registered for more than**
4 **thirty calendar days with the department if the primary purpose of the**
5 **message is to, directly or indirectly, advertise or otherwise link to a**
6 **message that advertises gambling, intoxicating liquor, tobacco**
7 **products, vapor products, controlled substances, or material**
8 **pornographic for minors. The sending of a message described in this**
9 **subsection is not prohibited if, prior to sending the message, the sender**
10 **has obtained from an age-verified adult an affirmative statement of**
11 **consent to receive the message at an adult designated contact point. To**
12 **comply with this subsection, the sender shall do all of the following:**

13 **(1) Verify the person making the affirmative statement is of legal**
14 **age by inspecting, in a face-to-face transaction, a valid government-**
15 **issued photo identification with proof of age;**

16 **(2) Obtain a written record stating that a recipient has consented**
17 **to receive the type of message described in subsection 1 of this**
18 **section. The consent form required under this section shall be signed**
19 **by the recipient. The sender shall retain the consent form and make it**
20 **available for verification as may be required under subdivision (4) of**
21 **subsection 1 of this section;**

22 **(3) Include notice to the recipient in all messages allowed under**
23 **this subsection that he or she may resend his or her consent and**
24 **provide an opportunity for the recipient to opt-out of the receiving of**
25 **any future messages;**

26 **(4) Notify the department that the sender intends to send**
27 **messages as allowed under this subsection. The department may**
28 **implement procedures to verify that the sender is in compliance with**
29 **this subsection.**

30 2. The department shall establish a mechanism for senders of
31 messages to contact points to verify compliance with the registry. The
32 mechanism to verify compliance with the registry shall be established
33 by rules promulgated by the department. A person desiring to send a
34 message described in subsection 1 of this section shall use the
35 mechanism created under this subsection to ensure compliance with
36 this section. A person desiring to send a message described in
37 subsection 1 of this section shall pay the department a fee for access to
38 the mechanism required under this subsection. The fee shall be seven-
39 tenths of one cent and shall be based on the number of contact points
40 checked against the registry for each time a contact point is
41 checked. The fees collected under this act shall be credited to the
42 following:

43 (1) Eighty-five percent of the fees to the children's protection
44 registry fund created in section 650.720;

45 (2) Not less than fifteen percent of the fees to the attorney
46 general to cover the cost of investigating, enforcing, and defending
47 sections 650.700 to 650.730. The department may reimburse the
48 attorney general from the fund created under section 650.720 for any
49 costs incurred under this subdivision that exceed the fees credited
50 under this subdivision.

51 3. The consent of a minor or third party to receive the message
52 is not a defense to a violation of this section.

53 4. An internet service provider does not violate this section by
54 solely transmitting a message across the network of the internet service
55 provider.

 650.720. There is hereby created in the state treasury the "Child
2 Protection Registry Fund", which shall consist of money collected under
3 section 650.715. The state treasurer shall be custodian of the fund. In
4 accordance with sections 30.170 and 30.180, the state treasurer may
5 approve disbursements. The fund shall be a dedicated fund and money
6 in the fund shall be used solely by the department of public safety for
7 the purpose of the administration of sections 650.700 to 650.730, and for
8 the promotion, investigation, enforcement, and defense of sections
9 650.700 to 650.730. The department may also expend funds as necessary
10 for the establishment and operation of additional on-line safety and
11 internet crimes against children initiatives as determined by the

12 department. Notwithstanding the provisions of section 33.080 to the
13 contrary, any moneys remaining in the fund at the end of the biennium
14 shall not revert to the credit of the general revenue fund. The state
15 treasurer shall invest moneys in the fund in the same manner as other
16 funds are invested. Any interest and moneys earned on such
17 investments shall be credited to the fund.

650.725. 1. A person found to be in violation of section 650.715
2 is guilty of a class A misdemeanor.

3 2. A person authorized to have personal information belonging
4 to a minor obtained under section 650.710 who knowingly discloses
5 such information is guilty of a class A misdemeanor.

6 3. A civil action based on the violation of section 650.715 may be
7 brought by an authorized individual or the registrant of a contact point
8 on behalf of a minor who has received a message in violation of section
9 650.715, or by the attorney general. A civil action may also be brought
10 by a person through whose facilities the message was transmitted in
11 violation of section 650.715. In any action brought under this section,
12 the prevailing party may be awarded reasonable attorney fees. A
13 person bringing an action under this section may recover one of the
14 following:

15 (1) Actual damages, including reasonable attorney fees;

16 (2) In lieu of actual damages, recover the lesser of the following:

17 (a) Five thousand dollars per each message received by a
18 recipient or transmitted; or

19 (b) Two hundred and fifty thousand dollars for each day the
20 violation occurs.

21 4. If the attorney general has reason to believe that a person has
22 violated sections 650.700 to 650.730, the attorney general may
23 investigate the business transactions of that person. The attorney
24 general may require the person to appear at a reasonable time and
25 place, to give information under oath, and to produce such documents
26 and evidence necessary to determine whether the person is in
27 compliance with the requirements of sections 650.700 to 650.730. Any
28 civil penalties collected by the attorney general under this section shall
29 be credited to the attorney general for the cost of investigating,
30 enforcing, and defending sections 650.700 to 650.730.

31 5. It is a defense to an action brought under this section that a

32 person reasonably relied on the mechanism established by the
33 department under section 2 of section 650.715.

650.730. Any rule or portion of a rule, as that term is defined in
2 section 536.010 that is created under the authority delegated in sections
3 650.700 to 650.725 shall become effective only if it complies with and is
4 subject to all of the provisions of chapter 536, and, if applicable, section
5 536.028. This section and chapter 536 are nonseverable and if any of
6 the powers vested with the general assembly pursuant to chapter 536,
7 to review, to delay the effective date, or to disapprove and annul a rule
8 are subsequently held unconstitutional, then the grant of rulemaking
9 authority and any rule proposed or adopted after August 28, 2015, shall
10 be invalid and void.

Section B. The enactment of sections 650.700, 650.705, 650.710, 650.715,
2 650.720, 650.725, and 650.730 of this act shall become effective January 1, 2016.

✓

Bill

Copy