

HOUSE BILL NO. 1922

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

5451H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 195, RSMo, by adding thereto four new sections relating to the prescription abuse registry, with penalty provisions.

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

Section A. Chapter 195, RSMo, is amended by adding thereto four new sections, to be known as sections 195.650, 195.655, 195.660, and 195.665, to read as follows:

195.650. 1. For the purposes of sections 195.650 to 195.665, the following terms shall mean:

- (1) “Controlled substance”, the same meaning ascribed to it in section 195.010;**
- (2) “Department”, the department of health and senior services;**
- (3) “Health care provider”, the same meaning ascribed to it in section 376.1350;**
- (4) “Registry”, the prescription abuse registry established under sections 195.650 to 195.665;**
- (5) “Rehabilitation facility”, any facility where residential prevention, evaluation, care, treatment, habilitation, or rehabilitation is provided for individuals affected by alcohol or drug abuse.**

2. The department shall promulgate rules and regulations to implement the provisions of sections 195.650 to 195.665. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held

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.

18 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
19 **after August 28, 2016, shall be invalid and void.**

2 **195.655. 1. There is hereby established within the department of health and senior**
3 **services a “Prescription Abuse Registry”, which shall be available by January 1, 2018.**

4 **2. The following individuals who are eighteen years of age or older shall be listed**
5 **in the prescription abuse registry:**

6 **(1) Individuals who have been found guilty under federal law, the laws of this state,**
7 **or under the laws of another state of a crime involving possession or use of a controlled**
8 **substance;**

9 **(2) Individuals who request to be listed in the registry;**

10 **(3) Any individual reported to the department by a relative within the first degree**
11 **of consanguinity of such individual who has reason to believe that such individual has**
12 **illicitly used or abused controlled substances;**

13 **(4) Any individual reported to the department by a health care provider who has**
14 **a reasonable suspicion that such individual has illicitly used or abused controlled**
15 **substances. A health care provider may report an individual under this section if the**
16 **individual has ever attempted to acquire controlled substances or a prescription for**
17 **controlled substances from the health care provider regardless of whether the individual**
18 **is a patient of the health care provider. If an individual contacts a health care provider**
19 **seeking rehabilitation services only, the health care provider shall not report the individual**
20 **to the department without the individual’s written consent; and**

21 **(5) Any individual reported to the department by an employee of a rehabilitation**
22 **facility if the employee has obtained the informed written consent of the individual.**

23 **3. Information regarding individuals in the prescription abuse registry shall**
24 **include, but not be limited to, the following:**

25 **(1) The individual’s name;**

26 **(2) The individual’s date of birth;**

27 **(3) The individual’s Social Security number; and**

28 **(4) The method by which and the date on which the individual was reported to the**
29 **department under subsection 2 of this section.**

30 **4. If an individual has been reported to the department for listing in the registry,**
31 **the department shall notify the individual by certified mail that his or her name has been**
32 **submitted for entry into the registry. The department shall not disclose the method by**
33 **which the individual was reported or any identifying information of any reporter in such**
34 **notice. Such notice shall inform the individual of his or her right to appeal the listing**
under section 195.665 within thirty days. If no appeal is filed with the department within

35 thirty days, the individual shall be listed in the registry. If the individual timely files an
36 appeal, his or her name shall not be listed in the registry until the conclusion of the
37 administrative appeal process.

195.660. 1. Information contained in the prescription abuse registry shall be
2 confidential and not subject to public disclosure under chapter 610 except as provided in
3 subsection 3 of this section.

4 2. The department shall maintain procedures to ensure the privacy and
5 confidentiality of personal information reported to, collected by, and maintained in the
6 registry and to ensure such information is not disclosed except as provided in subsection
7 3 of this section.

8 3. The department shall establish procedures to enable health care providers to
9 access the prescription abuse registry for the sole purpose of determining whether an
10 individual is listed in the registry. A health care provider may submit a request to
11 determine if an individual is listed in the registry by submitting the individual's name and
12 date of birth or Social Security number. The health care provider shall receive a response
13 that only confirms or denies the individual's listing in the registry. No health care provider
14 shall have access to any other personal information contained in the registry.

15 4. No department, agency, instrumentality, political subdivision, or law
16 enforcement agency of this state including the bureau of narcotics and dangerous drugs,
17 federal law enforcement agency, or individual other than a health care provider under the
18 provisions of subsection 3 of this section shall have access to the prescription abuse
19 registry.

20 5. Nothing in this section shall be construed to require a health care provider to
21 obtain information about an individual or patient from the registry. No health care
22 provider shall be held liable for damages to any person in any civil action for injury, death,
23 or loss to person or property on the basis of the health care provider accessing or not
24 accessing the registry. No health care provider in compliance with the provisions of
25 sections 195.650 to 195.665 shall be subject to discipline by any licensing board or state
26 agency for acting in good faith with regards to the registry.

195.665. 1. Any individual listed in the prescription abuse registry under
2 subdivisions (2) to (5) of subsection 2 of section 195.655 shall have a right to appeal his or
3 her listing in the registry and any information contained in the registry. Any such appeal
4 shall be filed in writing with the department within thirty days of the individual's receipt
5 of notice that he or she was listed in the registry. An administrative appeal shall be set
6 within thirty days of the filing of the appeal and a decision shall be made within sixty days.
7 If the department determines by a preponderance of the evidence that the individual was

8 wrongfully listed in the registry, the department shall find in favor of such individual and
9 the individual shall be removed from the registry. If the appeal is decided against such
10 person, the person may seek judicial review of such decision under sections 536.100 to
11 536.150. An individual's right to appeal under this section is in addition to any other
12 appeal rights granted by state law.

13 2. Individuals listed in the registry under subdivisions (2) to (5) of subsection 2 of
14 section 195.655 may submit a petition to the department to be removed from the registry
15 after seven years from the date such individual was placed in the registry. An
16 administrative hearing shall be set within thirty days of the filing of the petition and a
17 decision shall be made within sixty days. If the department determines that the individual
18 has been drug free for seven years and is a contributing member of society, the department
19 shall find in favor of the individual and the department shall remove the individual from
20 the registry and his or her file shall be closed. If the department decides against the
21 individual, he or she may seek judicial review of such decision under sections 536.100 to
22 536.150.

23 3. Any person who unlawfully and knowingly accesses or discloses, or a person
24 authorized to have information in the prescription abuse registry under sections 195.650
25 to 195.665 who knowingly discloses, such information in violation of sections 195.650 to
26 195.665 or knowingly uses such information in a manner and for a purpose in violation of
27 sections 195.650 to 195.665 is guilty of a class D felony until December 31, 2016, and a class
28 E felony starting January 1, 2017.

29 4. If a person unlawfully and knowingly accesses or discloses, or if a person
30 authorized to have information in the prescription abuse registry under sections 195.650
31 to 195.665 knowingly discloses such information in violation of sections 195.650 to 195.665
32 or knowingly uses such information in a manner and for a purpose in violation of sections
33 195.650 to 195.665, the person whose information was disclosed shall have a cause of action
34 to recover liquidated damages in the amount of two thousand five hundred dollars in
35 addition to compensatory economic and noneconomic damages, attorney's fees, and court
36 costs. If it is determined by a court of competent jurisdiction that such disclosure was done
37 intentionally and maliciously, the person shall be entitled to punitive damages in addition
38 to the damages above. The total amount of damages that may be recovered from the
39 department shall be ten million dollars per incident if the individual's information in the
40 prescription abuse registry was disclosed by an employee of the department without the
41 knowledge or consent of the employee's supervisor.

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