

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 827**  
94TH GENERAL ASSEMBLY

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Reported from the Committee on Seniors, Families and Public Health, May 3, 2007, with recommendation that the Senate Committee Substitute do pass.

1986S.05C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To amend chapter 167, RSMo, by adding thereto one new section relating to educational needs of children in licensed residential care facilities.

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

Section A. Chapter 167, RSMo, is amended by adding thereto one new  
2 section, to be known as section 167.128, to read as follows:

167.128. 1. The educational needs of each child under the  
2 jurisdiction of the juvenile court or family court under subdivisions (1),  
3 (2), or (5) of subsection 1 of section 211.031, RSMo, shall be considered  
4 as part of the function of the child's family support team pursuant to  
5 policy of the department of social services. Such needs shall include,  
6 but not be limited to, the assumption that regular full school days of  
7 education are warranted. For the purposes of this section, "full school  
8 day" shall mean six hours in which the child is under the guidance and  
9 direction of teachers in the education process. The local school district  
10 shall be invited to have representation on the child's family support  
11 team. If the school district designates a representative, the  
12 representative shall be a full participant in the family support team.

13 2. Nothing in this section shall be construed to infringe upon the  
14 rights or due process provisions of the federal Individuals with  
15 Disabilities Education Act. Nothing in this section shall be construed  
16 to impede the ability of the family support team or the facility staff  
17 from making a referral for special education services, if appropriate,  
18 when a child is placed in a facility described in this section without an  
19 individualized education program or without a pending referral for

20 such services. If a child is referred for such services, the provisions of  
21 the Individuals with Disabilities Education Act shall apply and control  
22 while the referral is pending and through the evaluation process,  
23 including provisions for educational decision-makers and educational  
24 surrogates. Nothing in this section shall be construed to deny any child  
25 domiciled in Missouri appropriate and necessary free public education  
26 services.

27 3. When the department of social services by contract places a  
28 child for treatment in a licensed residential care facility setting for  
29 children as defined in section 210.481, RSMo, such facility shall be  
30 responsible for the educational needs of the child if the child at the  
31 time of placement does not have an individualized education program  
32 or a pending referral for special education services under sections  
33 162.670 to 162.999, RSMo.

34 (1) Such facilities operating an on-site school for which they hire  
35 their own education staff shall:

36 (a) Provide, on site at such facility, a full school day of education  
37 for each child placed in such facility by the department of social  
38 services unless the child's plan of treatment and care supports his or  
39 her ability to attend public school; and

40 (b) Be reimbursed by the local school district for the cost of  
41 education services provided to children placed in their care by the  
42 department of social services, as approved by the department of  
43 elementary and secondary education, when the facility provides  
44 education services. The local school district shall be compensated  
45 under section 167.126, RSMo, for such education services.

46 No child placed in the facilities for treatment described in this  
47 subdivision shall be considered by the local school district as  
48 homebound for purposes of education unless the family support team  
49 under subsection 1 of this section has approved homebound instruction.  
50 A full school day of education shall be provided unless fewer hours of  
51 instruction per day are approved by the family support team under  
52 subsection 1 of this section. Nothing in this subdivision shall create an  
53 obligation for a licensed residential care facility to have on-site  
54 classrooms, to operate an on-site school, or to hire its own education  
55 staff.

56 (2) When such facilities have on-site classrooms but do not hire

57 their own education staff, the local school district:

58 (a) Shall provide, on site at such facility, or at an alternative  
59 location agreed upon under subsection 6 of this section, a full school  
60 day of education for each child placed in such facility for care by the  
61 department of social services unless the child's plan of treatment and  
62 care supports his or her ability to attend public school;

63 (b) Shall be compensated under section 167.126 for such  
64 education services, as approved by the department of elementary and  
65 secondary education; and

66 (c) May consider such education services as homebound  
67 instruction but shall provide each homebound child with a full school  
68 day of education unless fewer hours of instruction per day are  
69 approved by the family support team under subsection 1 of this section.  
70 Nothing in this subdivision shall create an obligation for a licensed  
71 residential care facility to have on-site classrooms, to operate an on-site  
72 school, or to hire its own education staff.

73 (3) When such facilities do not operate an on-site school or have  
74 on-site classrooms, the local school district shall:

75 (a) Provide a full school day of education for each child placed  
76 in such facility for care by the department of social services; and

77 (b) Be compensated for such education services under section  
78 167.126, as approved by the department of elementary and secondary  
79 education.

80 If the child's behavior or plan of treatment and care does not support  
81 the child's being educated in a regular education class, education  
82 services shall be provided in an alternative setting approved by the  
83 family support team under subsection 1 of this section. A full school  
84 day of education shall be provided unless fewer hours of instruction  
85 per day are approved by the family support team under subsection 1 of  
86 this section. Nothing in this subdivision shall create an obligation for  
87 a licensed residential care facility to have on-site classrooms, to  
88 operate an on-site school, or to hire its own education staff.

89 4. Notwithstanding any other provision of law, a child placed for  
90 treatment by the department of social services in a licensed residential  
91 care facility setting for children as defined in section 210.481, RSMo,  
92 who does not have an individualized education program for special  
93 education services or a pending referral for such services under

94 sections 162.670 to 162.999, RSMo, whose plan of treatment and care  
95 supports his or her ability to attend public school but who is then  
96 suspended or otherwise demonstrates school failure based on behavior  
97 or academic performance shall then be provided a full school day of  
98 education according to subsection 3 of this section.

99         5. Nothing in this section shall prevent a licensed residential  
100 care facility setting for children as defined in section 210.481, RSMo,  
101 from contracting with school districts for education services. Nothing  
102 in this section shall prevent a school district from contracting with a  
103 licensed residential care facility setting for children as defined in  
104 section 210.481, RSMo, for education services.

105         6. (1) Any residential treatment facility shall work with the  
106 district and develop an educational plan that describes in general how  
107 and where educational services will be provided to school-aged  
108 residents of the treatment facility under a variety of possible  
109 circumstances. The educational plan shall be developed jointly by the  
110 appropriate staff of both the treatment facility and the public school  
111 district, and the plan shall be signed annually by the administration of  
112 both parties verifying their support for the plan.

113         (2) It is the intent that the educational plan follow the provisions  
114 of this section, but treatment facilities and school districts may develop  
115 provisions for educational services not included in this section if both  
116 parties agree on the provisions and if the provisions offer a full-day  
117 educational program for the students involved.

118         (3) It is understood as a condition of the plan that both the  
119 treatment facility and school district shall be fully reimbursed, as  
120 allowed by law in accordance with the availability of funds, for their  
121 portions of the cost of providing educational services through such  
122 sources as basic state aid, local district bill-back, and excess cost  
123 reimbursement, as well as other possible sources, and that a school  
124 district shall not be required to provide more total reimbursement to  
125 a treatment facility than it receives from all such sources. The local  
126 school district shall make all needed requests and applications for such  
127 reimbursement.

128         (4) Each treatment facility and school district shall furnish a  
129 signed copy of their educational plan to the department of elementary  
130 and secondary education and to the department of social services no

131 later than June first of each year.

132           (5) If a treatment facility and school district cannot reach an  
133 agreement on the education plan under this subsection, the differences  
134 shall be resolved by an arbitration panel made up of one representative  
135 from the department of elementary and secondary education, one  
136 representative from the children's division of the department of social  
137 services and one person appointed by the governor every three years,  
138 serving at the pleasure of the governor, with the advice and consent of  
139 the senate. A final decision shall be made by August fifteenth. Costs  
140 for the arbitration panel shall be shared equally by the treatment  
141 facility and the school district.

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Bill

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