

FIRST REGULAR SESSION

SENATE BILL NO. 31

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FOSTER.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0425S.011

AN ACT

To repeal sections 167.161 and 167.171, RSMo, and to enact in lieu thereof two new sections relating to suspension or expulsion of pupils in public schools, with penalty provisions.

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

Section A. Sections 167.161 and 167.171, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 167.161 and 167.171, to read as follows:

167.161. 1. The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the parties present and may consider records of past disciplinary actions, criminal court records or juvenile court records consistent with other provisions of the law, or the actions of the pupil which would constitute a criminal offense. The board may provide by general rule not inconsistent with this section for the procedure and conduct of such hearings. After meeting with the superintendent or his designee to discuss the expulsion, the parent, custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a hearing

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

before the board of education.

2. The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that [the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a]:

(1) Such pupil has been convicted of a felony criminal violation of state or federal law; or

(2) An indictment or information has been filed alleging that the pupil has committed a violent felony criminal violation of state or federal law to which there has been no final judgment; or

(3) A petition has been filed pursuant to section 211.091, RSMo, alleging that the pupil has committed an act which if committed by an adult would be a felony criminal violation of state or federal law to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be a felony criminal violation of state or federal law. At a hearing required by this subsection, the board shall consider statements that the parties present. The board may provide for the procedure and conduct of such hearings.

3. The school board shall make a good-faith effort to have the parents or others having custodial care present at any such hearing. Notwithstanding any other provision of law to the contrary, student discipline hearings or proceedings related to the rights of students to attend school or to receive academic credit shall not be required to comply with the requirements applicable to contested case hearings as provided in chapter 536, RSMo, provided that appropriate due process procedures shall be observed which shall include the right for a trial de novo by the circuit court.

167.171. 1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

(1) The pupil shall be given oral or written notice of the charges against such pupil;

(2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;

(3) The pupil shall be given an opportunity to present such pupil's version of the incident; and

(4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261, RSMo, regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

(1) Such pupil has been convicted of; or

(2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(3) A petition has been filed pursuant to section 211.091, RSMo, alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:

- (a) First degree murder [under] **pursuant to** section 565.020, RSMo;
- (b) Second degree murder [under] **pursuant to** section 565.021, RSMo;
- (c) First degree assault [under] **pursuant to** section 565.050, RSMo;
- (d) [Forcible rape under section 566.030, RSMo] **Any felony offense established pursuant to chapter 566 or 567, RSMo;**
- (e) [Forcible sodomy under section 566.060, RSMo;
- (f)] Robbery in the first degree [under] **pursuant to** section 569.020, RSMo;
- [(g)] **(f)** Distribution of drugs to a minor [under] **pursuant to** section 195.212, RSMo;
- [(h)] **(g)** Arson in the first degree [under] **pursuant to** section 569.040, RSMo;
- [(i)] **(h)** Kidnapping, when classified as a class A felony [under] **pursuant to** section 565.110, RSMo.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.