

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 286

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCKENNA.

Offered April 6, 2011.

Senate Substitute adopted, April 6, 2011.

Taken up for Perfection April 6, 2011. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1556S.02P

AN ACT

To repeal sections 37.710, 160.261, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, RSMo, and to enact in lieu thereof eighteen new sections relating to protecting children from sex offenders.

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

Section A. Sections 37.710, 160.261, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 37.710, 160.085, 160.261, 160.262, 160.2100, 160.2110, 162.014, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, to read as follows:

37.710. 1. The office shall have access to the following information:

(1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211, RSMo.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the

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

12 department of mental health, and other persons or entities providing treatment
13 and services;

14 (2) To have access, including the right to inspect, copy and subpoena
15 records held by the clerk of the juvenile or family court, juvenile officers, law
16 enforcement agencies, institutions, public or private, and other agencies, or
17 persons with whom a particular child has been either voluntarily or otherwise
18 placed for care, or has received treatment within this state or in another state;

19 (3) To work in conjunction with juvenile officers and guardians ad litem;

20 (4) **To file any findings or reports of the child advocate regarding**
21 **the parent or child with the court, and issue recommendations**
22 **regarding the disposition of an investigation, which may be provided**
23 **to the court and to the investigating agency;**

24 (5) To file amicus curiae briefs on behalf of the interests of the parent or
25 child;

26 [(5)] (6) To initiate meetings with the department of social services, the
27 department of mental health, the juvenile court, and juvenile officers;

28 [(6)] (7) To take whatever steps are appropriate to see that persons are
29 made aware of the services of the child advocate's office, its purpose, and how it
30 can be contacted;

31 [(7)] (8) To apply for and accept grants, gifts, and bequests of funds from
32 other states, federal, and interstate agencies, and independent authorities,
33 private firms, individuals, and foundations to carry out his or her duties and
34 responsibilities. The funds shall be deposited in a dedicated account established
35 within the office to permit moneys to be expended in accordance with the
36 provisions of the grant or bequest; [and]

37 [(8)] (9) Subject to appropriation, to establish as needed local panels on
38 a regional or county basis to adequately and efficiently carry out the functions
39 and duties of the office, and address complaints in a timely manner; **and**

40 **(10) To mediate between alleged victims of sexual misconduct**
41 **and school districts as provided in subsection 1 of section 160.262.**

42 3. For any information obtained from a state agency or entity under
43 sections 37.700 to 37.730, the office of child advocate shall be subject to the same
44 disclosure restrictions and confidentiality requirements that apply to the state
45 agency or entity providing such information to the office of child advocate. For
46 information obtained directly by the office of child advocate under sections 37.700
47 to 37.730, the office of child advocate shall be subject to the same disclosure
48 restrictions and confidentiality requirements that apply to the children's division
49 regarding information obtained during a child abuse and neglect investigation

50 resulting in an unsubstantiated report.

160.085. The provisions of sections 37.710, 160.085, 160.261, 160.262, 162.014, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037 relating to protecting children from sexual offenders shall be known as the "Amy Hestir Student Protection Act".

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- 29 (1) First degree murder under section 565.020;
- 30 (2) Second degree murder under section 565.021;
- 31 (3) Kidnapping under section 565.110;
- 32 (4) First degree assault under section 565.050;

- 33 (5) Forcible rape under section 566.030;
- 34 (6) Forcible sodomy under section 566.060;
- 35 (7) Burglary in the first degree under section 569.160;
- 36 (8) Burglary in the second degree under section 569.170;
- 37 (9) Robbery in the first degree under section 569.020;
- 38 (10) Distribution of drugs under section 195.211;
- 39 (11) Distribution of drugs to a minor under section 195.212;
- 40 (12) Arson in the first degree under section 569.040;
- 41 (13) Voluntary manslaughter under section 565.023;
- 42 (14) Involuntary manslaughter under section 565.024;
- 43 (15) Second degree assault under section 565.060;
- 44 (16) Sexual assault under section 566.040;
- 45 (17) Felonious restraint under section 565.120;
- 46 (18) Property damage in the first degree under section 569.100;
- 47 (19) The possession of a weapon under chapter 571;
- 48 (20) Child molestation in the first degree pursuant to section 566.067;
- 49 (21) Deviate sexual assault pursuant to section 566.070;
- 50 (22) Sexual misconduct involving a child pursuant to section 566.083;
- 51 (23) Sexual abuse pursuant to section 566.100;
- 52 (24) Harassment under section 565.090; or
- 53 (25) Stalking under section 565.225;

54 committed on school property, including but not limited to actions on any school
55 bus in service on behalf of the district or while involved in school activities. The
56 policy shall require that any portion of a student's individualized education
57 program that is related to demonstrated or potentially violent behavior shall be
58 provided to any teacher and other school district employees who are directly
59 responsible for the student's education or who otherwise interact with the student
60 on an educational basis while acting within the scope of their assigned
61 duties. The policy shall also contain the consequences of failure to obey
62 standards of conduct set by the local board of education, and the importance of
63 the standards to the maintenance of an atmosphere where orderly learning is
64 possible and encouraged.

65 3. The policy shall provide that any student who is on suspension for any
66 of the offenses listed in subsection 2 of this section or any act of violence or
67 drug-related activity defined by school district policy as a serious violation of
68 school discipline pursuant to subsection 9 of this section shall have as a condition
69 of his or her suspension the requirement that such student is not allowed, while
70 on such suspension, to be within one thousand feet of any school property in the

71 school district where such student attended school or any activity of that district,
72 regardless of whether or not the activity takes place on district property unless:

73 (1) Such student is under the direct supervision of the student's parent,
74 legal guardian, or custodian and the superintendent or the superintendent's
75 designee has authorized the student to be on school property;

76 (2) Such student is under the direct supervision of another adult
77 designated by the student's parent, legal guardian, or custodian, in advance, in
78 writing, to the principal of the school which suspended the student and the
79 superintendent or the superintendent's designee has authorized the student to be
80 on school property;

81 (3) Such student is enrolled in and attending an alternative school that
82 is located within one thousand feet of a public school in the school district where
83 such student attended school; or

84 (4) Such student resides within one thousand feet of any public school in
85 the school district where such student attended school in which case such student
86 may be on the property of his or her residence without direct adult supervision.

87 4. Any student who violates the condition of suspension required pursuant
88 to subsection 3 of this section may be subject to expulsion or further suspension
89 pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making
90 this determination consideration shall be given to whether the student poses a
91 threat to the safety of any child or school employee and whether such student's
92 unsupervised presence within one thousand feet of the school is disruptive to the
93 educational process or undermines the effectiveness of the school's disciplinary
94 policy. Removal of any pupil who is a student with a disability is subject to state
95 and federal procedural rights. This section shall not limit a school district's
96 ability to:

97 (1) Prohibit all students who are suspended from being on school property
98 or attending an activity while on suspension;

99 (2) Discipline students for off-campus conduct that negatively affects the
100 educational environment to the extent allowed by law.

101 5. The policy shall provide for a suspension for a period of not less than
102 one year, or expulsion, for a student who is determined to have brought a weapon
103 to school, including but not limited to the school playground or the school parking
104 lot, brought a weapon on a school bus or brought a weapon to a school activity
105 whether on or off of the school property in violation of district policy, except that:

106 (1) The superintendent or, in a school district with no high school, the
107 principal of the school which such child attends may modify such suspension on
108 a case-by-case basis; and

109 (2) This section shall not prevent the school district from providing
110 educational services in an alternative setting to a student suspended under the
111 provisions of this section.

112 6. For the purpose of this section, the term "weapon" shall mean a firearm
113 as defined under 18 U.S.C. 921 and the following items, as defined in section
114 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a
115 firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon,
116 a rifle, a shotgun, a spring gun or a switchblade knife; except that this section
117 shall not be construed to prohibit a school board from adopting a policy to allow
118 a Civil War reenactor to carry a Civil War era weapon on school property for
119 educational purposes so long as the firearm is unloaded. The local board of
120 education shall define weapon in the discipline policy. Such definition shall
121 include the weapons defined in this subsection but may also include other
122 weapons.

123 7. All school district personnel responsible for the care and supervision
124 of students are authorized to hold every pupil strictly accountable for any
125 disorderly conduct in school or on any property of the school, on any school bus
126 going to or returning from school, during school-sponsored activities, or during
127 intermission or recess periods.

128 8. Teachers and other authorized district personnel in public schools
129 responsible for the care, supervision, and discipline of schoolchildren, including
130 volunteers selected with reasonable care by the school district, shall not be civilly
131 liable when acting in conformity with the established policies developed by each
132 board, including but not limited to policies of student discipline or when reporting
133 to his or her supervisor or other person as mandated by state law acts of school
134 violence or threatened acts of school violence, within the course and scope of the
135 duties of the teacher, authorized district personnel or volunteer, when such
136 individual is acting in conformity with the established policies developed by the
137 board. Nothing in this section shall be construed to create a new cause of action
138 against such school district, or to relieve the school district from liability for the
139 negligent acts of such persons.

140 9. Each school board shall define in its discipline policy acts of violence
141 and any other acts that constitute a serious violation of that policy. "Acts of
142 violence" as defined by school boards shall include but not be limited to exertion
143 of physical force by a student with the intent to do serious bodily harm to another
144 person while on school property, including a school bus in service on behalf of the
145 district, or while involved in school activities. School districts shall for each
146 student enrolled in the school district compile and maintain records of any

147 serious violation of the district's discipline policy. Such records shall be made
148 available to teachers and other school district employees with a need to know
149 while acting within the scope of their assigned duties, and shall be provided as
150 required in section 167.020 to any school district in which the student
151 subsequently attempts to enroll.

152 10. [(1)] Spanking, when administered by certificated personnel and in
153 the presence of a witness who is an employee of the school district, or the use of
154 reasonable force to protect persons or property, when administered by personnel
155 of a school district in a reasonable manner in accordance with the local board of
156 education's written policy of discipline, is not abuse within the meaning of
157 chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the
158 children's division shall not have jurisdiction over or investigate any report of
159 alleged child abuse arising out of or related to the use of reasonable force to
160 protect persons or property when administered by personnel of a school district
161 or any spanking administered in a reasonable manner by any certificated school
162 personnel in the presence of a witness who is an employee of the school district
163 pursuant to a written policy of discipline established by the board of education
164 of the school district, as long as no allegation of sexual misconduct arises from the
165 spanking or use of force.

166 **11. If a student reports alleged sexual misconduct on the part of**
167 **a teacher or other school employee to a person employed in a school**
168 **facility who is required to report such misconduct to the children's**
169 **division under section 210.115, such person and the superintendent of**
170 **the school district shall forward the allegation to the children's**
171 **division within twenty-four hours of receiving the information. Reports**
172 **made to the children's division under this subsection shall be**
173 **investigated by the division in accordance with the provisions of**
174 **sections 210.145 to 210.153 and shall not be investigated by the school**
175 **district under subsections 12 to 20 of this section for purposes of**
176 **determining whether the allegations should or should not be**
177 **substantiated. The district may investigate the allegations for the**
178 **purpose of making any decision regarding the employment of the**
179 **accused employee.**

180 [(2)] **12. Upon receipt of any reports of child abuse by the children's**
181 **division other than reports provided under subsection 11 of this section,**
182 **pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a**
183 **school district, the children's division shall notify the superintendent of schools**
184 **of the district or, if the person named in the alleged incident is the**

185 superintendent of schools, the president of the school board of the school district
186 where the alleged incident occurred.

187 **13.** If, after an initial investigation, the superintendent of schools or the
188 president of the school board finds that the report involves an alleged incident of
189 child abuse other than the administration of a spanking by certificated school
190 personnel or the use of reasonable force to protect persons or property when
191 administered by school personnel pursuant to a written policy of discipline or that
192 the report was made for the sole purpose of harassing a public school employee,
193 the superintendent of schools or the president of the school board shall
194 immediately refer the matter back to the children's division and take no further
195 action. **[(3)]** In all matters referred back to the children's division, the division
196 shall treat the report in the same manner as other reports of alleged child abuse
197 received by the division.

198 **14.** If the report pertains to an alleged incident which arose out of or is
199 related to a spanking administered by certificated personnel or the use of
200 reasonable force to protect persons or property when administered by personnel
201 of a school district pursuant to a written policy of discipline or a report made for
202 the sole purpose of harassing a public school employee, a notification of the
203 reported child abuse shall be sent by the superintendent of schools or the
204 president of the school board to the juvenile officer of the county in which the
205 alleged incident occurred.

206 **15.** The report shall be jointly investigated by the juvenile officer or a law
207 enforcement officer designated by the juvenile officer and the superintendent of
208 schools or, if the subject of the report is the superintendent of schools, by the
209 juvenile officer or a law enforcement officer designated by the juvenile officer and
210 the president of the school board or such president's designee.

211 **[(4)] 16.** The investigation shall begin no later than forty-eight hours
212 after notification from the children's division is received, and shall consist of, but
213 need not be limited to, interviewing and recording statements of the child and the
214 child's parents or guardian within two working days after the start of the
215 investigation, of the school district personnel allegedly involved in the report, and
216 of any witnesses to the alleged incident.

217 **17.** The juvenile officer or a law enforcement officer designated by the
218 juvenile officer and the investigating school district personnel shall issue separate
219 reports of their findings and recommendations after the conclusion of the
220 investigation to the school board of the school district within seven days after
221 receiving notice from the children's division.

222 **18.** The reports shall contain a statement of conclusion as to whether the

223 report of alleged child abuse is substantiated or is unsubstantiated.

224 [(5)] **19.** The school board shall consider the separate reports **referred**
225 **to in subsection 17 of this section** and shall issue its findings and conclusions
226 and the action to be taken, if any, within seven days after receiving the last of the
227 two reports. The findings and conclusions shall be made in substantially the
228 following form:

229 [(a)] **(1)** The report of the alleged child abuse is unsubstantiated. The
230 juvenile officer or a law enforcement officer designated by the juvenile officer and
231 the investigating school board personnel agree that [the evidence shows that
232 no] **there was not a preponderance of evidence to substantiate that**
233 abuse occurred;

234 [(b)] **(2)** The report of the alleged child abuse is substantiated. The
235 juvenile officer or a law enforcement officer designated by the juvenile officer and
236 the investigating school district personnel agree that the **preponderance of**
237 evidence is sufficient to support a finding that the alleged incident of child abuse
238 did occur;

239 [(c)] **(3)** The issue involved in the alleged incident of child abuse is
240 unresolved. The juvenile officer or a law enforcement officer designated by the
241 juvenile officer and the investigating school personnel are unable to agree on
242 their findings and conclusions on the alleged incident.

243 [11.] **20.** The findings and conclusions of the school board under
244 [subdivision (5) of] subsection [10] **19** of this section shall be sent to the
245 children's division. If the findings and conclusions of the school board are that
246 the report of the alleged child abuse is unsubstantiated, the investigation shall
247 be terminated, the case closed, and no record shall be entered in the children's
248 division central registry. If the findings and conclusions of the school board are
249 that the report of the alleged child abuse is substantiated, the children's division
250 shall report the incident to the prosecuting attorney of the appropriate county
251 along with the findings and conclusions of the school district and shall include
252 the information in the division's central registry. If the findings and conclusions
253 of the school board are that the issue involved in the alleged incident of child
254 abuse is unresolved, the children's division shall report the incident to the
255 prosecuting attorney of the appropriate county along with the findings and
256 conclusions of the school board, however, the incident and the names of the
257 parties allegedly involved shall not be entered into the central registry of the
258 children's division unless and until the alleged child abuse is substantiated by a
259 court of competent jurisdiction.

260 [12.] **21.** Any superintendent of schools, president of a school board or

261 such person's designee or juvenile officer who knowingly falsifies any report of
262 any matter pursuant to this section or who knowingly withholds any information
263 relative to any investigation or report pursuant to this section is guilty of a class
264 A misdemeanor.

265 [13.] 22. In order to ensure the safety of all students, should a student
266 be expelled for bringing a weapon to school, violent behavior, or for an act of
267 school violence, that student shall not, for the purposes of the accreditation
268 process of the Missouri school improvement plan, be considered a dropout or be
269 included in the calculation of that district's educational persistence ratio.

2 160.262. 1. The office of the child advocate as created in section
3 37.705 shall be authorized to coordinate mediation efforts between
4 school districts and students when requested by both parties when
5 allegations of child abuse arise in a school setting. The office of the
6 child advocate shall maintain a list of individuals who are qualified
7 mediators. The child advocate shall be available as one of the
8 mediators on the list from which parents can choose.

8 2. Mediation procedures shall meet the following requirements:

9 (1) The mediation process shall not be used to deny or delay any
10 other complaint process available to the parties; and

11 (2) The mediation process shall be conducted by a qualified and
12 impartial mediator trained in effective mediation techniques who is not
13 affiliated with schools or school professional associations, is not a
14 mandated reporter of child abuse under state law or regulation, and
15 who is available as a public service.

16 3. No student, parent of a student, school employee, or school
17 district shall be required to participate in mediation under this section.
18 If either the school district or the student or student's parent does not
19 wish to enter into mediation, mediation shall not occur.

20 4. Each session in the mediation process shall be scheduled in a
21 timely manner and be held in a location that is convenient to the
22 parties in dispute.

23 5. Discussions that occur during the mediation process shall be
24 confidential and may not be used as evidence in any subsequent
25 administrative proceeding, administrative hearing, nor in any civil or
26 criminal proceeding of any state or federal court.

27 6. If the parties resolve a dispute through the mediation process,
28 the parties shall execute a legally binding agreement that sets forth the
29 resolution and:

30 (1) States that all discussions that occurred during the mediation
31 process shall remain confidential and may not be used as evidence in
32 any subsequent administrative proceeding, administrative hearing, or
33 civil proceeding of any federal or state court; and

34 (2) Is signed by a representative of each party who has authority
35 to bind the party.

160.2100. 1. Sections 160.2100 and 160.2110 shall be known and
2 may be cited as "Erin's Law".

3 2. The "Task Force on the Prevention of Sexual Abuse of
4 Children" is hereby created to study the issue of sexual abuse of
5 children until January 1, 2013. The task force shall consist of all of the
6 following members:

7 (1) One member of the general assembly appointed by the
8 president pro tem of the senate;

9 (2) One member of the general assembly appointed by the
10 minority floor leader of the senate;

11 (3) One member of the general assembly appointed by the
12 speaker of the house of representatives;

13 (4) One member of the general assembly appointed by the
14 minority leader of the house of representatives;

15 (5) The director of the department of social services or his or her
16 designee;

17 (6) The commissioner of education or his or her designee;

18 (7) The director of the department of health and senior services
19 or his or her designee;

20 (8) The director of the office of prosecution services or his or her
21 designee;

22 (9) A representative representing law enforcement appointed by
23 the governor;

24 (10) Three active teachers employed in Missouri appointed by
25 the governor;

26 (11) A representative of an organization involved in forensic
27 investigation relating to child abuse in this state appointed by the
28 governor;

29 (12) A school superintendent appointed by the governor;

30 (13) A representative of the state domestic violence coalition
31 appointed by the governor;

32 (14) A representative from the juvenile and family court

33 appointed by the governor;

34 (15) A representative from Missouri Network of Child Advocacy
35 Centers appointed by the governor;

36 (16) An at-large member appointed by the governor.

37 3. Members of the task force shall be individuals who are
38 actively involved in the fields of the prevention of child abuse and
39 neglect and child welfare. The appointment of members shall reflect
40 the geographic diversity of the state.

41 4. The task force shall elect a presiding officer by a majority vote
42 of the membership of the task force. The task force shall meet at the
43 call of the presiding officer.

44 5. The task force shall make recommendations for reducing child
45 sexual abuse in Missouri. In making those recommendations, the task
46 force shall:

47 (1) Gather information concerning child sexual abuse throughout
48 the state;

49 (2) Receive reports and testimony from individuals, state and
50 local agencies, community-based organizations, and other public and
51 private organizations;

52 (3) Create goals for state policy that would prevent child sexual
53 abuse; and

54 (4) Submit a final report with its recommendations to the
55 governor, general assembly, and the state board of education by
56 January 1, 2013.

57 6. The recommendations may include proposals for specific
58 statutory changes and methods to foster cooperation among state
59 agencies and between the state and local government.

60 7. The task force shall consult with employees of the department
61 of social services, the department of public safety, department of
62 elementary and secondary education, and any other state agency,
63 board, commission, office, or department as necessary to accomplish
64 the task force's responsibilities under this section.

65 8. The members of the task force shall serve without
66 compensation and shall not be reimbursed for their expenses.

67 9. The provisions of sections 160.2100 and 160.2110 shall expire
68 on January 1, 2013.

160.2110. 1. The task force on the prevention of sexual abuse of
2 children established in section 160.2100 may adopt and implement a

3 policy addressing sexual abuse of children that may include:

4 (1) Age-appropriate curriculum for students in pre-K through
5 fifth grade;

6 (2) Training for school personnel on child sexual abuse;

7 (3) Educational information to parents or guardians provided in
8 the school handbook on the warning signs of a child being abused,
9 along with any needed assistance, referral, or resource information;

10 (4) Available counseling and resources for students affected by
11 sexual abuse; and

12 (5) Emotional and educational support for a child of abuse to
13 continue to be successful in school.

14 2. Any policy adopted may address without limitation:

15 (1) Methods for increasing teacher, student, and parent
16 awareness of issues regarding sexual abuse of children, including
17 knowledge of likely warning signs indicating that a child may be a
18 victim of sexual abuse;

19 (2) Actions that a child who is a victim of sexual abuse could
20 take to obtain assistance and intervention; and

21 (3) Available counseling options for students affected by sexual
22 abuse.

162.014. No person shall be a candidate for a member or director
2 of the school board in any school district in this state if such person is
3 registered or is required to be registered as a sex offender under
4 sections 589.400 to 589.425. Any member or director of the school board
5 of any school district who is registered or required to be registered as
6 a sex offender under sections 589.400 to 589.425 shall be ineligible to
7 serve as a member or director of a school board of any school district
8 at the conclusion of his or her term of office.

162.068. 1. By July 1, 2012, every school district shall adopt a
2 written policy on information that the district provides about former
3 employees, both certificated and noncertificated, to other public
4 schools. The policy shall include who is permitted to respond to
5 requests for information from potential employers and the information
6 the district would provide when responding to such a request. The
7 policy shall require that notice of this provision be provided to all
8 current employees and to all potential employers who contact the
9 school district regarding the possible employment of a school district
10 employee.

11 2. Any school district that employs a person about whom the
12 children's division conducts an investigation involving allegations of
13 sexual misconduct with a student and reaches a finding of
14 substantiated shall immediately suspend the employment of such
15 person, notwithstanding any other provision of law, but the district
16 may return the person to his or her employment if the child abuse and
17 neglect review board's finding that the allegation is substantiated is
18 reversed by a court on appeal and becomes final. Nothing shall
19 preclude a school district from otherwise lawfully terminating the
20 employment of any employee about whom there has been a finding of
21 unsubstantiated resulting from an investigation by the children's
22 division involving allegations of sexual misconduct with a student.

23 3. Any school district employee who is permitted to respond to
24 requests for information regarding former employees under a policy
25 adopted by his or her school district under subsection 2 of this section
26 and who communicates only the information which such policy directs,
27 and who acts in good faith and without malice shall be immune against
28 any civil action for damages brought by the former employee arising
29 out of the communication of such information. If any such action is
30 brought, the school district employee may, at his or her option, request
31 the attorney general to defend him or her in such suit and the attorney
32 general shall provide such defense, except that if the attorney general
33 represents the school district or the department of elementary and
34 secondary education in a pending licensing matter under section
35 168.071 the attorney general shall not represent the school district
36 employee.

37 4. Notwithstanding the provisions of subsection 2 of this section,
38 if a district that has employed any employee whose job involves contact
39 with children receives allegations of sexual misconduct concerning the
40 employee and as a result of such allegations or as a result of such
41 allegations being substantiated by the child abuse and neglect review
42 board dismisses the employee or allows the employee to resign in lieu
43 of being fired and fails to disclose the allegations of sexual misconduct
44 when furnishing a reference for the former employee or responding to
45 a potential employer's request for information regarding such
46 employee, the district shall be directly liable for damages to any
47 student of a subsequent employing district who is found by a court of
48 competent jurisdiction to be a victim of the former employee's sexual

49 misconduct, and the district shall bear third-party liability to the
50 employing district for any legal liability, legal fees, costs, and expenses
51 incurred by the employing district caused by the failure to disclose
52 such information to the employing district.

53 5. If a school district has previously employed a person about
54 whom the children's division has conducted an investigation involving
55 allegations of sexual misconduct with a student and has reached a
56 finding of substantiated and another public school contacts the district
57 for a reference for the former employee, the district shall disclose the
58 results of the children's division's investigation to the public school.

59 6. Any school district employee, acting in good faith, who reports
60 alleged sexual misconduct on the part of a teacher or other school
61 employee shall not be discharged or otherwise discriminated against
62 in any fashion because of such reporting.

162.069. 1. Every school district shall, by January 1, 2012,
2 promulgate a written policy concerning teacher-student communication
3 and employee-student communication. Such policy shall contain at
4 least the following elements:

5 (1) Appropriate oral and nonverbal personal communication,
6 which may be combined with or included in any policy on sexual
7 harassment; and

8 (2) Appropriate use of electronic media such as text messaging
9 and internet sites for both instructional and personal purposes, with an
10 element concerning use of social networking sites no less stringent
11 than the provisions of subsections 2, 3, and 4 of this section.

12 2. As used in this section, the following terms shall mean:

13 (1) "Exclusive access", the information on the website is available
14 only to the owner (teacher) and user (student) by mutual explicit
15 consent and where third parties have no access to the information on
16 the website absent an explicit consent agreement with the owner
17 (teacher);

18 (2) "Former student", any person who was at one time a student
19 at the school at which the teacher is employed and who is eighteen
20 years of age or less and who has not graduated;

21 (3) "Nonwork-related internet site", any internet website or web
22 page used by a teacher primarily for personal purposes and not for
23 educational purposes;

24 (4) "Work-related internet site", any internet website or web

25 **pages used by a teacher for educational purposes.**

26 **3. No teacher shall establish, maintain, or use a work-related**
27 **internet site unless such site is available to school administrators and**
28 **the child's legal custodian, physical custodian, or legal guardian.**

29 **4. No teacher shall establish, maintain, or use a nonwork-related**
30 **internet site which allows exclusive access with a current or former**
31 **student. Nothing in this subsection shall be construed as prohibiting**
32 **a teacher from establishing a nonwork related internet site, provided**
33 **the site is used in accordance with this section.**

34 **5. Every school district shall, by July 1, 2012, include in its**
35 **teacher and employee training, a component that provides up-to-date**
36 **and reliable information on identifying signs of sexual abuse in**
37 **children and danger signals of potentially abusive relationships**
38 **between children and adults. The training shall emphasize the**
39 **importance of mandatory reporting of abuse under section 210.115**
40 **including the obligation of mandated reporters to report suspected**
41 **abuse by other mandated reporters, and how to establish an**
42 **atmosphere of trust so that students feel their school has concerned**
43 **adults with whom they feel comfortable discussing matters related to**
44 **abuse.**

168.021. 1. Certificates of license to teach in the public schools of the
2 state shall be granted as follows:

3 (1) By the state board, under rules and regulations prescribed by it:

4 (a) Upon the basis of college credit;

5 (b) Upon the basis of examination;

6 (2) By the state board, under rules and regulations prescribed by the state
7 board with advice from the advisory council established by section 168.015 to any
8 individual who presents to the state board a valid doctoral degree from an
9 accredited institution of higher education accredited by a regional accrediting
10 association such as North Central Association. Such certificate shall be limited
11 to the major area of postgraduate study of the holder, shall be issued only after
12 successful completion of the examination required for graduation pursuant to
13 rules adopted by the state board of education, and shall be restricted to those
14 certificates established pursuant to subdivision (1) of subsection 3 of this section;

15 (3) By the state board, which shall issue the professional certificate
16 classification in both the general and specialized areas most closely aligned with
17 the current areas of certification approved by the state board, commensurate with
18 the years of teaching experience of the applicant, and based upon the following

19 criteria:

20 (a) Recommendation of a state-approved baccalaureate-level teacher
21 preparation program;

22 (b) Successful attainment of the Missouri qualifying score on the exit
23 assessment for teachers or administrators designated by the state board of
24 education. Applicants who have not successfully achieved a qualifying score on
25 the designated examinations will be issued a two-year nonrenewable provisional
26 certificate; and

27 (c) Upon completion of a background check **as prescribed in section**
28 **168.133** and possession of a valid teaching certificate in the state from which the
29 applicant's teacher preparation program was completed;

30 (4) By the state board, under rules prescribed by it, on the basis of a
31 relevant bachelor's degree, or higher degree, and a passing score for the
32 designated exit examination, for individuals whose academic degree and
33 professional experience are suitable to provide a basis for instruction solely in the
34 subject matter of banking or financial responsibility, at the discretion of the state
35 board. Such certificate shall be limited to the major area of study of the holder
36 and shall be restricted to those certificates established under subdivision (1) of
37 subsection 3 of this section. Holders of certificates granted under this subdivision
38 shall be exempt from the teacher tenure act under sections 168.102 to 168.130
39 and each school district shall have the decision-making authority on whether to
40 hire the holders of such certificates; or

41 (5) By the state board, under rules and regulations prescribed by it, on
42 the basis of certification by the American Board for Certification of Teacher
43 Excellence (ABCTE) and verification of ability to work with children as
44 demonstrated by sixty contact hours in any one of the following areas as validated
45 by the school principal: sixty contact hours in the classroom, of which at least
46 forty-five must be teaching; sixty contact hours as a substitute teacher, with at
47 least thirty consecutive hours in the same classroom; sixty contact hours of
48 teaching in a private school; or sixty contact hours of teaching as a
49 paraprofessional, for an initial four-year ABCTE certificate of license to teach,
50 except that such certificate shall not be granted for the areas of early childhood
51 education, elementary education, or special education. Upon the completion of
52 the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an
53 applicant shall be eligible to apply for a career continuous professional certificate
54 under subdivision (2) of subsection 3 of this section:

55 (a) Completion of thirty contact hours of professional development within
56 four years, which may include hours spent in class in an appropriate college

57 curriculum;

58 (b) Validated completion of two years of the mentoring program of the
59 American Board for Certification of Teacher Excellence or a district mentoring
60 program approved by the state board of education;

61 (c) Attainment of a successful performance-based teacher evaluation; and

62 (d) Participate in a beginning teacher assistance program.

63 2. All valid teaching certificates issued pursuant to law or state board
64 policies and regulations prior to September 1, 1988, shall be exempt from the
65 professional development requirements of this section and shall continue in effect
66 until they expire, are revoked or suspended, as provided by law. When such
67 certificates are required to be renewed, the state board or its designee shall grant
68 to each holder of such a certificate the certificate most nearly equivalent to the
69 one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or
70 continuous professional certificate shall, upon expiration of his or her current
71 certificate, be issued the appropriate level of certificate based upon the
72 classification system established pursuant to subsection 3 of this section.

73 3. Certificates of license to teach in the public schools of the state shall
74 be based upon minimum requirements prescribed by the state board of education
75 **which shall include completion of a background check as prescribed in**
76 **section 168.133.** The state board shall provide for the following levels of
77 professional certification: an initial professional certificate and a career
78 continuous professional certificate.

79 (1) The initial professional certificate shall be issued upon completion of
80 requirements established by the state board of education and shall be valid based
81 upon verification of actual teaching within a specified time period established by
82 the state board of education. The state board shall require holders of the
83 four-year initial professional certificate to:

84 (a) Participate in a mentoring program approved and provided by the
85 district for a minimum of two years;

86 (b) Complete thirty contact hours of professional development, which may
87 include hours spent in class in an appropriate college curriculum, or for holders
88 of a certificate under subdivision (4) of subsection 1 of this section, an amount of
89 professional development in proportion to the certificate holder's hours in the
90 classroom, if the certificate holder is employed less than full time; and

91 (c) Participate in a beginning teacher assistance program;

92 (2) (a) The career continuous professional certificate shall be issued upon
93 verification of completion of four years of teaching under the initial professional
94 certificate and upon verification of the completion of the requirements articulated

95 in paragraphs (a), (b), and (c) of subdivision (1) of this subsection or paragraphs
96 (a), (b), (c), and (d) of subdivision (5) of subsection 1 of this section.

97 (b) The career continuous professional certificate shall be continuous
98 based upon verification of actual employment in an educational position as
99 provided for in state board guidelines and completion of fifteen contact hours of
100 professional development per year which may include hours spent in class in an
101 appropriate college curriculum. Should the possessor of a valid career continuous
102 professional certificate fail, in any given year, to meet the fifteen-hour
103 professional development requirement, the possessor may, within two years, make
104 up the missing hours. In order to make up for missing hours, the possessor shall
105 first complete the fifteen-hour requirement for the current year and then may
106 count hours in excess of the current year requirement as make-up hours. Should
107 the possessor fail to make up the missing hours within two years, the certificate
108 shall become inactive. In order to reactivate the certificate, the possessor shall
109 complete twenty-four contact hours of professional development which may
110 include hours spent in the classroom in an appropriate college curriculum within
111 the six months prior to or after reactivating his or her certificate. The
112 requirements of this paragraph shall be monitored and verified by the local school
113 district which employs the holder of the career continuous professional certificate.

114 (c) A holder of a career continuous professional certificate shall be exempt
115 from the professional development contact hour requirements of paragraph (b) of
116 this subdivision if such teacher has a local professional development plan in place
117 within such teacher's school district and meets two of the three following criteria:

118 a. Has ten years of teaching experience as defined by the state board of
119 education;

120 b. Possesses a master's degree; or

121 c. Obtains a rigorous national certification as approved by the state board
122 of education.

123 4. Policies and procedures shall be established by which a teacher who
124 was not retained due to a reduction in force may retain the current level of
125 certification. There shall also be established policies and procedures allowing a
126 teacher who has not been employed in an educational position for three years or
127 more to reactivate his or her last level of certification by completing twenty-four
128 contact hours of professional development which may include hours spent in the
129 classroom in an appropriate college curriculum within the six months prior to or
130 after reactivating his or her certificate.

131 5. The state board shall, upon [an appropriate] **completion of a**
132 **background check as prescribed in section 168.133**, issue a professional

133 certificate classification in the areas most closely aligned with an applicant's
134 current areas of certification, commensurate with the years of teaching experience
135 of the applicant, to any person who is hired to teach in a public school in this
136 state and who possesses a valid teaching certificate from another state or
137 certification under subdivision (4) of subsection 1 of this section, provided that
138 the certificate holder shall annually complete the state board's requirements for
139 such level of certification, and shall establish policies by which residents of states
140 other than the state of Missouri may be assessed a fee for a certificate license to
141 teach in the public schools of Missouri. Such fee shall be in an amount sufficient
142 to recover any or all costs associated with the issuing of a certificate of license to
143 teach. The board shall promulgate rules to authorize the issuance of a
144 provisional certificate of license, which shall allow the holder to assume classroom
145 duties pending the completion of a criminal background check under section
146 168.133, for any applicant who:

- 147 (1) Is the spouse of a member of the armed forces stationed in Missouri;
148 (2) Relocated from another state within one year of the date of
149 application;
150 (3) Underwent a criminal background check in order to be issued a
151 teaching certificate of license from another state; and
152 (4) Otherwise qualifies under this section.

153 6. The state board may assess to holders of an initial professional
154 certificate a fee, to be deposited into the excellence in education revolving fund
155 established pursuant to section 160.268, for the issuance of the career continuous
156 professional certificate. However, such fee shall not exceed the combined costs
157 of issuance and any criminal background check required as a condition of
158 issuance. Applicants for the initial ABCTE certificate shall be responsible for any
159 fees associated with the program leading to the issuance of the certificate, but
160 nothing in this section shall prohibit a district from developing a policy that
161 permits fee reimbursement.

162 7. Any member of the public school retirement system of Missouri who
163 entered covered employment with ten or more years of educational experience in
164 another state or states and held a certificate issued by another state and
165 subsequently worked in a school district covered by the public school retirement
166 system of Missouri for ten or more years who later became certificated in
167 Missouri shall have that certificate dated back to his or her original date of
168 employment in a Missouri public school.

169 8. The provisions of subdivision (5) of subsection 1 of this section, as well
170 as any other provision of this section relating to the American Board for

171 Certification of Teacher Excellence, shall terminate on August 28, 2014.

168.071. 1. The state board of education may refuse to issue or renew a
2 certificate, or may, upon hearing, discipline the holder of a certificate of license
3 to teach for the following causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been
5 found guilty of a felony or crime involving moral turpitude under the laws of this
6 state, any other state, of the United States, or any other country, whether or not
7 sentence is imposed;

8 (2) The certification was obtained through use of fraud, deception,
9 misrepresentation or bribery;

10 (3) There is evidence of incompetence, immorality, or neglect of duty by
11 the certificate holder;

12 (4) A certificate holder has been subject to disciplinary action relating to
13 certification issued by another state, territory, federal agency, or country upon
14 grounds for which discipline is authorized in this section; or

15 (5) If charges are filed by the local board of education, based upon the
16 annulling of a written contract with the local board of education, for reasons other
17 than election to the general assembly, without the consent of the majority of the
18 members of the board that is a party to the contract.

19 2. A public school district may file charges seeking the discipline of a
20 holder of a certificate of license to teach based upon any cause or combination of
21 causes outlined in subsection 1 of this section, including annulment of a written
22 contract. Charges shall be in writing, specify the basis for the charges, and be
23 signed by the chief administrative officer of the district, or by the president of the
24 board of education as authorized by a majority of the board of education. The
25 board of education may also petition the office of the attorney general to file
26 charges on behalf of the school district for any cause other than annulment of
27 contract, with acceptance of the petition at the discretion of the attorney general.

28 3. The department of elementary and secondary education may file
29 charges seeking the discipline of a holder of a certificate of license to teach based
30 upon any cause or combination of causes outlined in subsection 1 of this section,
31 other than annulment of contract. Charges shall be in writing, specify the basis
32 for the charges, and be signed by legal counsel representing the department of
33 elementary and secondary education.

34 4. If the underlying conduct or actions which are the basis for charges
35 filed pursuant to this section are also the subject of a pending criminal charge
36 against the person holding such certificate, the certificate holder may request, in
37 writing, a delayed hearing on advice of counsel under the fifth amendment of the

38 Constitution of the United States. Based upon such a request, no hearing shall
39 be held until after a trial has been completed on this criminal charge.

40 5. The certificate holder shall be given not less than thirty days' notice of
41 any hearing held pursuant to this section.

42 6. Other provisions of this section notwithstanding, the certificate of
43 license to teach shall be revoked or, in the case of an applicant, a certificate shall
44 not be issued, if the certificate holder or applicant has pleaded guilty to or been
45 found guilty of any of the following offenses established pursuant to Missouri law
46 or offenses of a similar nature established under the laws of any other state or
47 of the United States, or any other country, whether or not the sentence is
48 imposed:

49 (1) Any dangerous felony as defined in section 556.061, RSMo, or murder
50 in the first degree **under section 565.020**;

51 (2) Any of the following sexual offenses: rape **under section 566.030**;
52 statutory rape in the first degree **under section 566.032**; statutory rape in the
53 second degree **under section 566.034**; sexual assault **under section 566.040**;
54 forcible sodomy **under section 566.060**; statutory sodomy in the first degree
55 **under section 566.062**; statutory sodomy in the second degree **under section**
56 **566.064**; child molestation in the first degree **under section 566.067**; child
57 molestation in the second degree **under section 566.068**; deviate sexual assault
58 **under section 566.070**; sexual misconduct involving a child **under section**
59 **566.083**; **sexual contact with a student while on public school property**
60 **under section 566.086**; sexual misconduct in the first degree **under section**
61 **566.090**; **sexual misconduct in the second degree under section 566.093**;
62 **sexual misconduct in the third degree under section 566.095**; sexual
63 abuse **under section 565.100**; enticement of a child **under section 566.151**;
64 or attempting to entice a child;

65 (3) Any of the following offenses against the family and related offenses:
66 incest **under section 568.020**; abandonment of child in the first degree **under**
67 **section 568.030**; abandonment of child in the second degree **under section**
68 **568.032**; endangering the welfare of a child in the first degree **under section**
69 **568.045**; abuse of a child **under section 568.060**; child used in a sexual
70 performance **under section 568.080**; promoting sexual performance by a child
71 **under section 568.090**; or trafficking in children **under section 568.175**; and

72 (4) Any of the following offenses involving child pornography and related
73 offenses: promoting obscenity in the first degree **under section 573.020**;
74 promoting obscenity in the second degree when the penalty is enhanced to a class
75 D felony **under section 573.030**; promoting child pornography in the first degree

76 **under section 573.025**; promoting child pornography in the second degree
77 **under section 573.035**; possession of child pornography [in the first degree]
78 **under section 573.037**; [possession of child pornography in the second degree;
79 furnishing child pornography to a minor;] furnishing pornographic materials to
80 minors **under section 573.040**; or coercing acceptance of obscene material
81 **under section 573.065**.

82 7. When a certificate holder pleads guilty or is found guilty of any offense
83 that would authorize the state board of education to seek discipline against that
84 holder's certificate of license to teach, the local board of education or the
85 department of elementary and secondary education shall immediately provide
86 written notice to the state board of education and the attorney general regarding
87 the plea of guilty or finding of guilty.

88 8. The certificate holder whose certificate was revoked pursuant to
89 subsection 6 of this section may appeal such revocation to the state board of
90 education. Notice of this appeal must be received by the commissioner of
91 education within ninety days of notice of revocation pursuant to this
92 subsection. Failure of the certificate holder to notify the commissioner of the
93 intent to appeal waives all rights to appeal the revocation. Upon notice of the
94 certificate holder's intent to appeal, an appeal hearing shall be held by a hearing
95 officer designated by the commissioner of education, with the final decision made
96 by the state board of education, based upon the record of that hearing. The
97 certificate holder shall be given not less than thirty days' notice of the hearing,
98 and an opportunity to be heard by the hearing officer, together with witnesses.

99 9. In the case of any certificate holder who has surrendered or failed to
100 renew his or her certificate of license to teach, the state board of education may
101 refuse to issue or renew, or may suspend or revoke, such certificate for any of the
102 reasons contained in this section.

103 10. In those cases where the charges filed pursuant to this section are
104 based upon an allegation of misconduct involving a minor child, the hearing
105 officer may accept into the record the sworn testimony of the minor child relating
106 to the misconduct received in any court or administrative hearing.

107 11. Hearings, appeals or other matters involving certificate holders,
108 licensees or applicants pursuant to this section may be informally resolved by
109 consent agreement or agreed settlement or voluntary surrender of the certificate
110 of license pursuant to the rules promulgated by the state board of education.

111 12. The final decision of the state board of education is subject to judicial
112 review pursuant to sections 536.100 to 536.140, RSMo.

113 13. A certificate of license to teach to an individual who has been

114 convicted of a felony or crime involving moral turpitude, whether or not sentence
115 is imposed, shall be issued only upon motion of the state board of education
116 adopted by a unanimous affirmative vote of those members present and voting.

168.133. 1. The school district shall ensure that a criminal background
2 check is conducted on any person employed after January 1, 2005, authorized to
3 have contact with pupils and prior to the individual having contact with any
4 pupil. Such persons include, but are not limited to, administrators, teachers,
5 aides, paraprofessionals, assistants, secretaries, custodians, cooks, and
6 nurses. The school district shall also ensure that a criminal background check
7 is conducted for school bus drivers. The district may allow such drivers to
8 operate buses pending the result of the criminal background check. For bus
9 drivers, the **school district shall be responsible for conducting the**
10 **criminal** background check [shall be conducted] on drivers employed by the
11 school district [or]. **For drivers** employed by a pupil transportation company
12 under contract with the school district, **the criminal background check shall**
13 **be conducted pursuant to section 43.540 and conform to the**
14 **requirements established in the National Child Protection Act of 1993,**
15 **as amended by the Volunteers for Children Act. Personnel who have**
16 **successfully undergone a criminal background check and a check of the**
17 **family care safety registry as part of the professional license**
18 **application process under section 168.021 and who have received**
19 **clearance on the checks within one prior year of employment shall be**
20 **considered to have completed the background check requirement. A**
21 **criminal background check under this section shall include a search of**
22 **any information publicly available in an electronic format through a**
23 **public index or single case display.**

24 2. In order to facilitate the criminal history background check [on any
25 person employed after January 1, 2005], the applicant shall submit [two sets] a
26 **set** of fingerprints collected pursuant to standards determined by the Missouri
27 highway patrol. [One set of] **The** fingerprints shall be used by the highway
28 patrol to search the criminal history repository [and the family care safety
29 registry pursuant to sections 210.900 to 210.936, RSMo,] and [the second set]
30 shall be forwarded to the Federal Bureau of Investigation for searching the
31 federal criminal history files.

32 3. The applicant shall pay the fee for the state criminal history record
33 information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936,
34 RSMo, and pay the appropriate fee determined by the Federal Bureau of
35 Investigation for the federal criminal history record when he or she applies for

36 a position authorized to have contact with pupils pursuant to this section. The
37 department shall distribute the fees collected for the state and federal criminal
38 histories to the Missouri highway patrol.

39 **4. The department of elementary and secondary education shall**
40 **facilitate an annual check of employed persons holding current active**
41 **certificates under section 168.021 against criminal history records in**
42 **the central repository under section 43.530, the sexual offender registry**
43 **under sections 589.400 to 589.475, and child abuse central registry**
44 **under sections 210.109 to 210.183. The department of elementary and**
45 **secondary education shall facilitate procedures for school districts to**
46 **submit personnel information annually for persons employed by the**
47 **school districts who do not hold a current valid certificate who are**
48 **required by subsection 1 of this section to undergo a criminal**
49 **background check, sexual offender registry check, and child abuse**
50 **central registry check. The Missouri state highway patrol shall provide**
51 **ongoing electronic updates to criminal history background checks of**
52 **those persons previously submitted, both those who have an active**
53 **certificate and those who do not have an active certificate, by the**
54 **department of elementary and secondary education. This shall fulfill**
55 **the annual check against the criminal history records in the central**
56 **repository under section 43.530.**

57 **5. The school district may adopt a policy to provide for reimbursement of**
58 **expenses incurred by an employee for state and federal criminal history**
59 **information pursuant to section 43.530, RSMo.**

60 **[5.] 6. If, as a result of the criminal history background check mandated**
61 **by this section, it is determined that the holder of a certificate issued pursuant**
62 **to section 168.021 has pled guilty or nolo contendere to, or been found guilty of**
63 **a crime or offense listed in section 168.071, or a similar crime or offense**
64 **committed in another state, the United States, or any other country, regardless**
65 **of imposition of sentence, such information shall be reported to the department**
66 **of elementary and secondary education.**

67 **[6.] 7. Any school official making a report to the department of**
68 **elementary and secondary education in conformity with this section shall not be**
69 **subject to civil liability for such action.**

70 **[7.] 8. For any teacher who is employed by a school district on a**
71 **substitute or part-time basis within one year of such teacher's retirement from**
72 **a Missouri school, the state of Missouri shall not require such teacher to be**
73 **subject to any additional background checks prior to having contact with**

74 pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
75 restricting a school district from requiring additional background checks for such
76 teachers employed by the school district.

77 [8.] 9. A criminal background check and fingerprint collection conducted
78 under subsections 1 and 2 of this section shall be valid for at least a period of one
79 year and transferrable from one school district to another district. **A school**
80 **district may, in its discretion, conduct a new criminal background**
81 **check and fingerprint collection under subsections 1 and 2 for a newly**
82 **hired employee at the district's expense.** A teacher's change in type of
83 certification shall have no effect on the transferability or validity of such records.

84 [9.] 10. Nothing in this section shall be construed to alter the standards
85 for suspension, denial, or revocation of a certificate issued pursuant to this
86 chapter.

87 [10.] 11. The state board of education may promulgate rules for criminal
88 history background checks made pursuant to this section. Any rule or portion of
89 a rule, as that term is defined in section 536.010, RSMo, that is created under the
90 authority delegated in this section shall become effective only if it complies with
91 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
92 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
93 and if any of the powers vested with the general assembly pursuant to chapter
94 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
95 rule are subsequently held unconstitutional, then the grant of rulemaking
96 authority and any rule proposed or adopted after January 1, 2005, shall be
97 invalid and void.

210.135. 1. Any person, official, or institution complying with the
2 provisions of sections 210.110 to 210.165 in the making of a report, the taking of
3 color photographs, or the making of radiologic examinations pursuant to sections
4 210.110 to 210.165, or both such taking of color photographs and making of
5 radiologic examinations, or the removal or retaining a child pursuant to sections
6 210.110 to 210.165, or in cooperating with the division, or any other law
7 enforcement agency, juvenile office, court, or child-protective service agency of
8 this or any other state, in any of the activities pursuant to sections 210.110 to
9 210.165, or any other allegation of child abuse, neglect or assault, pursuant to
10 sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil
11 or criminal, that otherwise might result by reason of such actions. Provided,
12 however, any person, official or institution intentionally filing a false report,
13 acting in bad faith, or with ill intent, shall not have immunity from any liability,
14 civil or criminal. Any such person, official, or institution shall have the same

15 immunity with respect to participation in any judicial proceeding resulting from
16 the report.

17 **2. Any person, who is not a school district employee, who makes**
18 **a report to any employee of the school district of child abuse by a**
19 **school employee shall have immunity from any liability, civil or**
20 **criminal, that otherwise might result because of such report. Provided,**
21 **however, that any such person who makes a false report, knowing that**
22 **the report is false, or who acts in bad faith or with ill intent in making**
23 **such report shall not have immunity from any liability, civil or**
24 **criminal. Any such person shall have the same immunity with respect**
25 **to participation in any judicial proceeding resulting from the report.**

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where
3 child abuse or neglect has been alleged;
4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;
6 (3) Providing due process for those accused of child abuse or neglect; and
7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for
13 classification purposes of all child abuse and neglect reports. The protocols
14 developed by the division shall give priority to ensuring the well-being and safety
15 of the child. All child abuse and neglect reports shall be initiated within
16 twenty-four hours and shall be classified based upon the reported risk and injury
17 to the child. The division shall promulgate rules regarding the structured
18 decision-making protocols to be utilized for all child abuse and neglect reports.

19 3. Upon receipt of a report, the division shall determine if the report
20 merits investigation, including reports which if true would constitute a suspected
21 violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or
22 565.050, RSMo, if the victim is a child less than eighteen years of age, section
23 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age,
24 or other crimes under chapter 566, RSMo, if the victim is a child less than
25 eighteen years of age and the perpetrator is twenty-one years of age or older,
26 section 567.050, RSMo, if the victim is a child less than eighteen years of age,
27 section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo,

28 section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any
29 such crimes. The division shall immediately communicate all reports that merit
30 investigation to its appropriate local office and any relevant information as may
31 be contained in the information system. The local division staff shall determine,
32 through the use of protocols developed by the division, whether an investigation
33 or the family assessment and services approach should be used to respond to the
34 allegation. The protocols developed by the division shall give priority to ensuring
35 the well-being and safety of the child.

36 4. The local office shall contact the appropriate law enforcement agency
37 immediately upon receipt of a report which division personnel determine merits
38 an investigation and provide such agency with a detailed description of the report
39 received. In such cases the local division office shall request the assistance of the
40 local law enforcement agency in all aspects of the investigation of the
41 complaint. The appropriate law enforcement agency shall either assist the
42 division in the investigation or provide the division, within twenty-four hours, an
43 explanation in writing detailing the reasons why it is unable to assist.

44 5. The local office of the division shall cause an investigation or family
45 assessment and services approach to be initiated in accordance with the protocols
46 established in subsection 2 of this section, except in cases where the sole basis for
47 the report is educational neglect. If the report indicates that educational neglect
48 is the only complaint and there is no suspicion of other neglect or abuse, the
49 investigation shall be initiated within seventy-two hours of receipt of the report.
50 If the report indicates the child is in danger of serious physical harm or threat
51 to life, an investigation shall include direct observation of the subject child within
52 twenty-four hours of the receipt of the report. Local law enforcement shall take
53 all necessary steps to facilitate such direct observation. If the parents of the
54 child are not the alleged abusers, a parent of the child must be notified prior to
55 the child being interviewed by the division. If the abuse is alleged to have
56 occurred in a school or child-care facility the division shall not meet with the
57 child in any school building or child-care facility building where abuse of such
58 child is alleged to have occurred. When the child is reported absent from the
59 residence, the location and the well-being of the child shall be verified. For
60 purposes of this subsection, child-care facility shall have the same meaning as
61 such term is defined in section 210.201.

62 6. The director of the division shall name at least one chief investigator
63 for each local division office, who shall direct the division response on any case
64 involving a second or subsequent incident regarding the same subject child or
65 perpetrator. The duties of a chief investigator shall include verification of direct

66 observation of the subject child by the division and shall ensure information
67 regarding the status of an investigation is provided to the public school district
68 liaison. The public school district liaison shall develop protocol in conjunction
69 with the chief investigator to ensure information regarding an investigation is
70 shared with appropriate school personnel. The superintendent of each school
71 district shall designate a specific person or persons to act as the public school
72 district liaison. Should the subject child attend a nonpublic school the chief
73 investigator shall notify the school principal of the investigation. Upon
74 notification of an investigation, all information received by the public school
75 district liaison or the school shall be subject to the provisions of the federal
76 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
77 and federal rule 34 C.F.R., Part 99.

78 7. The investigation shall include but not be limited to the nature, extent,
79 and cause of the abuse or neglect; the identity and age of the person responsible
80 for the abuse or neglect; the names and conditions of other children in the home,
81 if any; the home environment and the relationship of the subject child to the
82 parents or other persons responsible for the child's care; any indication of
83 incidents of physical violence against any other household or family member; and
84 other pertinent data.

85 8. When a report has been made by a person required to report under
86 section 210.115, the division shall contact the person who made such report
87 within forty-eight hours of the receipt of the report in order to ensure that full
88 information has been received and to obtain any additional information or
89 medical records, or both, that may be pertinent.

90 9. Upon completion of the investigation, if the division suspects that the
91 report was made maliciously or for the purpose of harassment, the division shall
92 refer the report and any evidence of malice or harassment to the local prosecuting
93 or circuit attorney.

94 10. Multidisciplinary teams shall be used whenever conducting the
95 investigation as determined by the division in conjunction with local law
96 enforcement. Multidisciplinary teams shall be used in providing protective or
97 preventive social services, including the services of law enforcement, a liaison of
98 the local public school, the juvenile officer, the juvenile court, and other agencies,
99 both public and private.

100 11. For all family support team meetings involving an alleged victim of
101 child abuse or neglect, the parents, legal counsel for the parents, foster parents,
102 the legal guardian or custodian of the child, the guardian ad litem for the child,
103 and the volunteer advocate for the child shall be provided notice and be permitted

104 to attend all such meetings. Family members, other than alleged perpetrators,
105 or other community informal or formal service providers that provide significant
106 support to the child and other individuals may also be invited at the discretion
107 of the parents of the child. In addition, the parents, the legal counsel for the
108 parents, the legal guardian or custodian and the foster parents may request that
109 other individuals, other than alleged perpetrators, be permitted to attend such
110 team meetings. Once a person is provided notice of or attends such team
111 meetings, the division or the convenor of the meeting shall provide such persons
112 with notice of all such subsequent meetings involving the child. Families may
113 determine whether individuals invited at their discretion shall continue to be
114 invited.

115 12. If the appropriate local division personnel determine after an
116 investigation has begun that completing an investigation is not appropriate, the
117 division shall conduct a family assessment and services approach. The division
118 shall provide written notification to local law enforcement prior to terminating
119 any investigative process. The reason for the termination of the investigative
120 process shall be documented in the record of the division and the written
121 notification submitted to local law enforcement. Such notification shall not
122 preclude nor prevent any investigation by law enforcement.

123 13. If the appropriate local division personnel determines to use a family
124 assessment and services approach, the division shall:

125 (1) Assess any service needs of the family. The assessment of risk and
126 service needs shall be based on information gathered from the family and other
127 sources;

128 (2) Provide services which are voluntary and time-limited unless it is
129 determined by the division based on the assessment of risk that there will be a
130 high risk of abuse or neglect if the family refuses to accept the services. The
131 division shall identify services for families where it is determined that the child
132 is at high risk of future abuse or neglect. The division shall thoroughly document
133 in the record its attempt to provide voluntary services and the reasons these
134 services are important to reduce the risk of future abuse or neglect to the child.
135 If the family continues to refuse voluntary services or the child needs to be
136 protected, the division may commence an investigation;

137 (3) Commence an immediate investigation if at any time during the family
138 assessment and services approach the division determines that an investigation,
139 as delineated in sections 210.109 to 210.183, is required. The division staff who
140 have conducted the assessment may remain involved in the provision of services
141 to the child and family;

142 (4) Document at the time the case is closed, the outcome of the family
143 assessment and services approach, any service provided and the removal of risk
144 to the child, if it existed.

145 14. Within thirty days of an oral report of abuse or neglect, the local office
146 shall update the information in the information system. The information system
147 shall contain, at a minimum, the determination made by the division as a result
148 of the investigation, identifying information on the subjects of the report, those
149 responsible for the care of the subject child and other relevant dispositional
150 information. The division shall complete all investigations within thirty days,
151 unless good cause for the failure to complete the investigation is documented in
152 the information system. If a child involved in a pending investigation dies, the
153 investigation shall remain open until the division's investigation surrounding the
154 death is completed. If the investigation is not completed within thirty days, the
155 information system shall be updated at regular intervals and upon the completion
156 of the investigation. The information in the information system shall be updated
157 to reflect any subsequent findings, including any changes to the findings based
158 on an administrative or judicial hearing on the matter.

159 15. A person required to report under section 210.115 to the division and
160 any person making a report of child abuse or neglect made to the division which
161 is not made anonymously shall be informed by the division of his or her right to
162 obtain information concerning the disposition of his or her report. Such person
163 shall receive, from the local office, if requested, information on the general
164 disposition of his or her report. Such person may receive, if requested, findings
165 and information concerning the case. Such release of information shall be at the
166 discretion of the director based upon a review of the reporter's ability to assist in
167 protecting the child or the potential harm to the child or other children within the
168 family. The local office shall respond to the request within forty-five days. The
169 findings shall be made available to the reporter within five days of the outcome
170 of the investigation. If the report is determined to be unsubstantiated, the
171 reporter may request that the report be referred by the division to the office of
172 child advocate for children's protection and services established in sections 37.700
173 to 37.730, RSMo. Upon request by a reporter under this subsection, the division
174 shall refer an unsubstantiated report of child abuse or neglect to the office of
175 child advocate for children's protection and services.

176 **16. The division shall provide to any individual, who is not**
177 **satisfied with the results of an investigation, information about the**
178 **office of child advocate and the services it may provide under sections**
179 **37.700 to 37.730.**

180 **17.** In any judicial proceeding involving the custody of a child the fact
181 that a report may have been made pursuant to sections 210.109 to 210.183 shall
182 not be admissible. However:

183 (1) Nothing in this subsection shall prohibit the introduction of evidence
184 from independent sources to support the allegations that may have caused a
185 report to have been made; and

186 (2) The court may on its own motion, or shall if requested by a party to
187 the proceeding, make an inquiry not on the record with the children's division to
188 determine if such a report has been made. If a report has been made, the court
189 may stay the custody proceeding until the children's division completes its
190 investigation.

191 **[17.] 18.** In any judicial proceeding involving the custody of a child where
192 the court determines that the child is in need of services pursuant to subdivision
193 (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the
194 child's parent, guardian or custodian shall not be entered into the registry.

195 **[18.] 19.** The children's division is hereby granted the authority to
196 promulgate rules and regulations pursuant to the provisions of section 207.021,
197 RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to
198 210.183.

199 **[19.] 20.** Any rule or portion of a rule, as that term is defined in section
200 536.010, RSMo, that is created under the authority delegated in this section shall
201 become effective only if it complies with and is subject to all of the provisions of
202 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
203 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
204 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
205 date or to disapprove and annul a rule are subsequently held unconstitutional,
206 then the grant of rulemaking authority and any rule proposed or adopted after
207 August 28, 2000, shall be invalid and void.

210.152. 1. All identifying information, including telephone reports
2 reported pursuant to section 210.145, relating to reports of abuse or neglect
3 received by the division shall be retained by the division and removed from the
4 records of the division as follows:

5 (1) For investigation reports contained in the central registry, identifying
6 information shall be retained by the division;

7 (2) (a) For investigation reports initiated against a person required to
8 report pursuant to section 210.115, where insufficient evidence of abuse or neglect
9 is found by the division and where the division determines the allegation of abuse
10 or neglect was made maliciously, for purposes of harassment or in retaliation for

11 the filing of a report by a person required to report, identifying information shall
12 be expunged by the division within forty-five days from the conclusion of the
13 investigation;

14 (b) For investigation reports, where insufficient evidence of abuse or
15 neglect is found by the division and where the division determines the allegation
16 of abuse or neglect was made maliciously, for purposes of harassment or in
17 retaliation for the filing of a report, identifying information shall be expunged by
18 the division within forty-five days from the conclusion of the investigation;

19 (c) For investigation reports initiated by a person required to report under
20 section 210.115, where insufficient evidence of abuse or neglect is found by the
21 division, identifying information shall be retained for five years from the
22 conclusion of the investigation. For all other investigation reports where
23 insufficient evidence of abuse or neglect is found by the division, identifying
24 information shall be retained for two years from the conclusion of the
25 investigation. Such reports shall include any exculpatory evidence known by the
26 division, including exculpatory evidence obtained after the closing of the case. At
27 the end of such time period, the identifying information shall be removed from
28 the records of the division and destroyed;

29 (3) For reports where the division uses the family assessment and services
30 approach, identifying information shall be retained by the division;

31 (4) For reports in which the division is unable to locate the child alleged
32 to have been abused or neglected, identifying information shall be retained for ten
33 years from the date of the report and then shall be removed from the records of
34 the division.

35 2. Within ninety days after receipt of a report of abuse or neglect that is
36 investigated, the alleged perpetrator named in the report and the parents of the
37 child named in the report, if the alleged perpetrator is not a parent, shall be
38 notified in writing of any determination made by the division based on the
39 investigation. The notice shall advise either:

40 (1) That the division has determined by a probable cause finding prior to
41 August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
42 that abuse or neglect exists and that the division shall retain all identifying
43 information regarding the abuse or neglect; that such information shall remain
44 confidential and will not be released except to law enforcement agencies,
45 prosecuting or circuit attorneys, or as provided in section 210.150; that the
46 alleged perpetrator has sixty days from the date of receipt of the notice to seek
47 reversal of the division's determination through a review by the child abuse and
48 neglect review board as provided in subsection 3 of this section; or

49 (2) That the division has not made a probable cause finding or determined
50 by a preponderance of the evidence that abuse or neglect exists.

51 **3. The children's division may reopen a case for review at the**
52 **request of the alleged perpetrator, the alleged victim, or the office of**
53 **the child advocate if new, specific, and credible evidence is obtained**
54 **that the division's decision was based on fraud or misrepresentation of**
55 **material facts relevant to the division's decision and there is credible**
56 **evidence that absent such fraud or misrepresentation the division's**
57 **decision would have been different. If the alleged victim is under the**
58 **age of eighteen, the request for review may be made by the alleged**
59 **victim's parent, legal custodian, or legal guardian. All requests to**
60 **reopen an investigation for review shall be made within a reasonable**
61 **time and not more than one year after the children's division made its**
62 **decision. The division shall not reopen a case for review based on any**
63 **information which the person requesting the review knew, should have**
64 **known, or could by the exercise of reasonable care have known before**
65 **the date of the division's final decision in the case, unless the person**
66 **requesting the review shows by a preponderance of the evidence that**
67 **he or she could not have provided such information to the division**
68 **before the date of the division's final decision in the case. Any person,**
69 **other than the office of the child advocate, who makes a request to**
70 **reopen a case for review based on facts which the person knows to be**
71 **false or misleading or who acts in bad faith or with the intent to harass**
72 **the alleged victim or perpetrator shall not have immunity from any**
73 **liability, civil or criminal, for providing the information and requesting**
74 **that the division reopen the investigation. Any person who makes a**
75 **request to reopen an investigation based on facts which the person**
76 **knows to be false shall be guilty of a class A misdemeanor. The**
77 **children's division shall not reopen an investigation under any**
78 **circumstances while the case is pending before a court of this state nor**
79 **when a court has entered a final judgment after de novo judicial review**
80 **pursuant to section 210.152.**

81 **4. Any person named in an investigation as a perpetrator who is**
82 **aggrieved by a determination of abuse or neglect by the division as provided in**
83 **this section may seek an administrative review by the child abuse and neglect**
84 **review board pursuant to the provisions of section 210.153. Such request for**
85 **review shall be made within sixty days of notification of the division's decision**
86 **under this section. In those cases where criminal charges arising out of facts of**

87 the investigation are pending, the request for review shall be made within sixty
88 days from the court's final disposition or dismissal of the charges.

89 [4.] 5. In any such action for administrative review, the child abuse and
90 neglect review board shall sustain the division's determination if such
91 determination was supported by evidence of probable cause prior to August 28,
92 2004, or is supported by a preponderance of the evidence after August 28, 2004,
93 and is not against the weight of such evidence. The child abuse and neglect
94 review board hearing shall be closed to all persons except the parties, their
95 attorneys and those persons providing testimony on behalf of the parties.

96 [5.] 6. If the alleged perpetrator is aggrieved by the decision of the child
97 abuse and neglect review board, the alleged perpetrator may seek de novo judicial
98 review in the circuit court in the county in which the alleged perpetrator resides
99 and in circuits with split venue, in the venue in which the alleged perpetrator
100 resides, or in Cole County. If the alleged perpetrator is not a resident of the
101 state, proper venue shall be in Cole County. The case may be assigned to the
102 family court division where such a division has been established. The request for
103 a judicial review shall be made within sixty days of notification of the decision of
104 the child abuse and neglect review board decision. In reviewing such decisions,
105 the circuit court shall provide the alleged perpetrator the opportunity to appear
106 and present testimony. The alleged perpetrator may subpoena any witnesses
107 except the alleged victim or the reporter. However, the circuit court shall have
108 the discretion to allow the parties to submit the case upon a stipulated record.

109 [6.] 7. In any such action for administrative review, the child abuse and
110 neglect review board shall notify the child or the parent, guardian or legal
111 representative of the child that a review has been requested.

210.915. The department of corrections, the department of public safety,
2 the department of social services, **the department of elementary and**
3 **secondary education**, and the department of mental health shall collaborate
4 with the department to compare records on child-care, elder-care, mental health,
5 and personal-care workers, **including those individuals required to**
6 **undergo a background check under the provisions of section 168.133,**
7 and the records of persons with criminal convictions and the background checks
8 pursuant to subdivisions (1) to (8) of subsection 2 of section 210.903, and to enter
9 into any interagency agreements necessary to facilitate the receipt of such
10 information and the ongoing updating of such information. The department shall
11 promulgate rules and regulations concerning such updating, including subsequent
12 background reviews as listed in subsection 1 of section 210.909.

210.922. The department of health and senior services, department of

2 mental health, **department of elementary and secondary education**, and
3 department of social services may use the registry information to carry out the
4 duties assigned to the department pursuant to this chapter and chapters **168**,
5 190, 195, 197, 198, 630, and 660, RSMo.

556.037. Notwithstanding the provisions of section 556.036, prosecutions
2 for unlawful sexual offenses involving a person eighteen years of age or under
3 must be commenced within [~~twenty~~] **thirty** years after the victim reaches the age
4 of eighteen unless the prosecutions are for forcible rape, attempted forcible rape,
5 forcible sodomy, kidnapping, or attempted forcible sodomy in which case such
6 prosecutions may be commenced at any time.

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