

FIRST REGULAR SESSION

SENATE BILL NO. 531

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time February 25, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2294S.011

AN ACT

To amend chapter 166, RSMo, by adding thereto six new sections relating to savings accounts for education, with a penalty provision.

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

Section A. Chapter 166, RSMo, is amended by adding thereto six new
2 sections, to be known as sections 166.700, 166.705, 166.710, 166.715, 166.720, and
3 166.725, to read as follows:

**166.700. As used in sections 166.700 to 166.720, the following
2 terms shall mean:**

3 **(1) "Child with a disability":**

4 **(a) A child who is at least three years but less than twenty-two
5 years of age, who has been evaluated and found to have at least one of
6 the following disabilities and who, because of the disability, needs
7 special education and related services:**

8 **a. An autism spectrum disorder;**

9 **b. Developmental delay;**

10 **c. Emotional disability;**

11 **d. Hearing impairment;**

12 **e. Other health impairments;**

13 **f. Specific learning disability;**

14 **g. Mild, moderate, or severe intellectual disability;**

15 **h. Multiple disabilities;**

16 **i. Multiple disabilities with severe sensory impairment;**

17 **j. Orthopedic impairment;**

18 **k. Preschool severe delay;**

19 **l. Speech or language impairment;**

20 **m. Traumatic brain injury;**

21 n. Visual impairment;

22 (b) Shall not include a child if the determining factor for the
23 classification is one or more of the following:

24 a. A lack of appropriate instruction in reading, including
25 essential components of reading instruction;

26 b. A lack of appropriate instruction in mathematics;

27 c. Difficulty in writing, speaking or understanding the English
28 language due to an environmental background in which a language
29 other than English is primarily or exclusively used;

30 (2) "Curriculum", a complete course of study for a particular
31 content area or grade level, including any supplemental materials;

32 (3) "Department", the department of elementary and secondary
33 education;

34 (4) "Eligible postsecondary institution", any approved private
35 institution or approved public institution as defined in section
36 173.1102;

37 (5) "Parent", a resident of Missouri who is the parent or legal
38 guardian of a qualified student;

39 (6) "Private school", a school which is not a part of the public
40 school system of the state of Missouri and which charges tuition for the
41 rendering of elementary or secondary educational services;

42 (7) "Program", the Missouri empowerment scholarship accounts
43 program;

44 (8) "Qualified school", a private school or a preschool for
45 handicapped students that is located in Missouri and that does not
46 discriminate on the basis of race, color, or national origin;

47 (9) "Qualified student", a resident of this state who:

48 (a) Is any of the following:

49 a. Identified as having a disability under Section 504 of the
50 Rehabilitation Act of 1973;

51 b. Identified by a district as a child with a disability as defined
52 in subdivision (1) of this section;

53 c. A child with a disability who is eligible to receive services
54 from a school district under the Individuals with Disabilities Education
55 Act;

56 d. A child who is a ward of the juvenile court and who is residing
57 with a prospective permanent placement and for whom the case plan

58 is adoption or permanent guardianship;

59 e. A child who was a ward of the juvenile court and who
60 achieved permanency through adoption or permanent guardianship;
61 and

62 (b) Who did any of the following:

63 a. Attended a public school as a full-time student for at least the
64 first one hundred days of the prior school year and who transferred
65 from a public school under a contract to participate in the Missouri
66 empowerment scholarship account program; or

67 b. Previously participated in the Missouri empowerment
68 scholarship account program; or

69 (c) Is a child who is eligible to begin kindergarten under sections
70 160.051 to 160.055.

71 (10) "Treasurer", the state treasurer.

166.705. 1. Sections 166.700 to 166.720 establish the "Missouri
2 Empowerment Scholarship Accounts Program" to provide options for
3 the education of students in this state.

4 2. To enroll a qualified student for a Missouri empowerment
5 scholarship account, the parent of a qualified student shall sign an
6 agreement to do all of the following:

7 (1) Provide an education for the qualified student in at least the
8 subjects of reading, grammar, mathematics, social studies, and science;

9 (2) Not enroll the qualified student in a school operated by a
10 district or a charter school and release the district of residence from
11 all obligations to educate the qualified student; except that this
12 subdivision shall not relieve the student's district of residence from the
13 obligation to conduct an evaluation for disabilities;

14 (3) Use the money deposited in the qualified student's Missouri
15 empowerment scholarship account only for the following expenses of
16 the qualified student:

17 (a) Tuition or fees at a qualified school;

18 (b) Textbooks required by a qualified school;

19 (c) Educational therapies or services for the qualified student
20 from a licensed or accredited practitioner or provider, including
21 licensed or accredited paraprofessionals or educational aides;

22 (d) Tutoring services provided by a tutor accredited by a state,
23 regional, or national accrediting organization;

- 24 (e) Curriculum;
- 25 (f) Tuition or fees for a nonpublic online learning program;
- 26 (g) Fees for a nationally standardized norm-referenced
27 achievement test, advanced placement examinations, international
28 baccalaureate examinations, or any exams related to college or
29 university admission;
- 30 (h) Contributions to a qualified tuition program established
31 under 26 U.S.C. Section 529 for the benefit of the qualified student;
- 32 (i) Tuition or fees at an eligible postsecondary institution;
- 33 (j) Textbooks required by an eligible postsecondary institution;
- 34 (k) Fees for management of the empowerment scholarship
35 account by firms selected by the treasurer;
- 36 (l) Services provided by a public school, including individual
37 classes and extracurricular programs;
- 38 (m) Insurance or surety bond payments as required by the
39 department;
- 40 (4) Not use monies deposited in the qualified student's account
41 for any of the following:
- 42 (a) Computer hardware or other technological devices;
- 43 (b) Transportation of the pupil;
- 44 (c) Consumable educational supplies, including paper, pens,
45 pencils, or markers.
- 46 3. In exchange for the parent's agreement to subsection 2 of this
47 section, the department shall transfer an amount equal to ninety
48 percent of the state adequacy target into a Missouri empowerment
49 scholarship account for that particular qualified student from the
50 student's district of residence's state aid. The department may retain
51 up to five percent for each student with a Missouri empowerment
52 scholarship account for administration of the program. Of this five
53 percent, one percent shall be used for the treasurer's costs. For funds
54 in the account that are to be used at a qualified school, the department
55 shall issue a check payable to the pupil's parent or guardian and send
56 the check to the pupil's qualified school of enrollment. The parent or
57 guardian shall restrictively endorse the check to the receiving qualified
58 school of enrollment.
- 59 4. (1) There is hereby established in the state treasury the
60 "Missouri Empowerment Scholarship Account Fund", which shall consist

61 of money collected under this section. The department of elementary
62 and secondary education shall administer the fund. The state treasurer
63 shall be custodian of the fund. In accordance with sections 30.170 and
64 30.180, the state treasurer may approve disbursements. The fund shall
65 be a dedicated fund and money in the fund shall be used solely by the
66 department of elementary and secondary education for the purposes of
67 Missouri empowerment education savings accounts. Notwithstanding
68 the provisions of section 33.080 to the contrary, any moneys remaining
69 in the fund at the end of the biennium shall not revert to the credit of
70 the general revenue fund. The state treasurer shall invest moneys in
71 the fund in the same manner as other funds are invested. Any interest
72 and moneys earned on such investments shall be credited to the fund.

73 (2) If the number of Missouri empowerment scholarship accounts
74 significantly increases after the first fiscal year of implementation, the
75 department of elementary and secondary education and the treasurer
76 may request an increase in the amount appropriated to the fund in any
77 subsequent fiscal year in their budget requests.

78 5. Missouri empowerment scholarship accounts are renewable on
79 an annual basis upon request of the parent of a qualified
80 student. Notwithstanding any changes to the qualified student's
81 multidisciplinary evaluation team plan, a student who has previously
82 qualified for a Missouri empowerment scholarship account shall remain
83 eligible to apply for renewal until the student completes high school,
84 and submits scores from a nationally standardized norm-referenced
85 achievement test, advanced placement examination, international
86 baccalaureate examination, or any exam related to college or university
87 admission purchased with Missouri empowerment scholarship account
88 funds to the department.

89 6. A signed agreement under this section shall satisfy the
90 compulsory school attendance requirements of section 167.031.

91 7. A qualified school or a provider of services purchased under
92 this section shall not share, refund, or rebate any Missouri
93 empowerment scholarship account monies with the parent or qualified
94 student in any manner.

95 8. When the qualified student graduates from a postsecondary
96 institution or after any period of four consecutive years after high
97 school graduation in which the student is not enrolled in an eligible

98 postsecondary institution, the qualified student's Missouri
99 empowerment scholarship account shall be closed and any remaining
100 funds shall be returned to the state.

101 9. Monies received under sections 166.700 to 166.720 shall not
102 constitute taxable income to the parent of the qualified student.

166.710. 1. The treasurer may contract with private financial
2 management firms to manage Missouri empowerment scholarship
3 accounts with the supervision of the treasurer.

4 2. The department shall conduct or contract for annual audits of
5 empowerment scholarship accounts to ensure compliance with the
6 requirements of subsection 2 of section 166.705. The department shall
7 also conduct or contract for random, quarterly, and annual audits of
8 empowerment scholarship accounts as need to ensure compliance with
9 the requirements of subsection 2 of section 166.705.

10 3. A parent or qualified student or vendor may be disqualified
11 from program participation if, after a hearing before the commissioner
12 of education or his or her designee, the party is found to have
13 committed an intentional program violation consisting of any
14 misrepresentation or other act that materially violates any law or rule
15 governing the program. The department may remove any parent or
16 qualified student from eligibility for a Missouri empowerment
17 scholarship program account and shall notify the treasurer. A parent
18 may appeal the department's decision to the state board of education.
19 A parent may appeal the state board of education's decision to the
20 circuit court of the county in which the student resides.

21 4. The department may refer cases of substantial misuse of
22 monies to the attorney general for investigation if the department
23 obtains evidence of fraudulent use of an account.

24 5. The department shall make quarterly transfers of the amount
25 calculated under subsection 3 of section 166.705 to the treasurer for
26 deposit into the empowerment scholarship account of each qualified
27 student.

28 6. The department shall determine a period that is between July
29 first and May first of each year during which it shall accept
30 applications for the following school year. On or before May thirtieth
31 of each year, the department shall submit to the senate appropriations
32 committee and the budget committee of the house of representatives an

33 estimate of the amount required to fund empowerment scholarship
34 accounts for the following fiscal year. The department shall include in
35 its budget request for the following fiscal year the amount estimated in
36 subsection 3 of section 166.705 for each qualified student.

37 7. The department shall promulgate rules to implement and
38 administer the Missouri empowerment scholarship accounts program,
39 including:

40 (1) Policies for conducting examinations of use of account funds;

41 (2) Policies for conducting random, quarterly, and annual
42 reviews of accounts;

43 (3) Creating an online anonymous fraud reporting service;

44 (4) Creating an anonymous telephone hotline for fraud reporting;

45 and

46 (5) A surety bond requirement for account holders.

47 8. Any rule or portion of a rule, as that term is defined in section
48 536.010 that is created under the authority delegated in this section
49 shall become effective only if it complies with and is subject to all of
50 the provisions of chapter 536, and, if applicable, section 536.028. This
51 section and chapter 536 are nonseverable and if any of the powers
52 vested with the general assembly pursuant to chapter 536, to review, to
53 delay the effective date, or to disapprove and annul a rule are
54 subsequently held unconstitutional, then the grant of rulemaking
55 authority and any rule proposed or adopted after August 28, 2015, shall
56 be invalid and void.

166.715. 1. A person commits the offense of savings account
2 fraud if the person knowingly obtains by means of a false statement or
3 representation, by impersonation, or by other fraudulent device any of
4 the following:

5 (1) Assistance or service to which the person is not entitled;

6 (2) Assistance or service greater than that to which the person
7 is entitled;

8 (3) Payment for services or materials not provided for in sections
9 166.700 to 166.720.

10 2. The offense of savings account fraud is a class A misdemeanor.

11 3. No financial institution shall be liable in any civil action for
12 providing a savings account's financial information to the department
13 unless the information provided is false and the financial institution

14 providing the false information does so knowingly and with malice.

166.720. 1. Sections 166.700 to 166.720 do not permit any
2 governmental agency to exercise control or supervision over any
3 nonpublic school or program of home education under subsection 2 of
4 section 167.031.

5 2. A qualified school that accepts a payment from a parent under
6 sections 166.700 to 166.720 shall not be an agent of the state or federal
7 government.

8 3. A qualified school shall not be required to alter its creed,
9 practices, admissions policy, or curriculum in order to accept students
10 whose parents pay tuition or fees from an empowerment scholarship
11 account to participate as a qualified school.

12 4. In any legal proceeding challenging the application of sections
13 166.700 to 166.720 to a qualified school, the state shall bear the burden
14 of establishing that the law is necessary and does not impose any undue
15 burden on qualified schools.

166.725. Pursuant to section 23.253 of the Missouri sunset act:

2 (1) The provisions of the new program authorized under sections
3 166.700 to 166.720 shall sunset automatically six years after the
4 effective date of sections 166.700 to 166.720 unless reauthorized by an
5 act of the general assembly; and

6 (2) If such program is reauthorized, the program authorized
7 under sections 166.700 to 166.720 shall sunset automatically twelve
8 years after the effective date of the reauthorization of sections 166.700
9 to 166.720; and

10 (3) Sections 166.700 to 166.720 shall terminate on September first
11 of the calendar year immediately following the calendar year in which
12 the program authorized under sections 166.700 to 166.720 is sunset.

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