

SENATE BILL NO. 136

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR REHDER.

0508S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 168.133, RSMo, and to enact in lieu thereof one new section relating to criminal background checks for persons having contact with students.

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

Section A. Section 168.133, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 168.133,
3 to read as follows:

168.133. 1. As used in this section, "screened
2 volunteer" shall mean any person who assists a school by
3 providing uncompensated service and who may periodically be
4 left alone with students. The school district shall ensure
5 that a criminal background check is conducted for all
6 screened volunteers, who shall complete the criminal
7 background check prior to being left alone with a student.
8 Screened volunteers include, but are not limited to, persons
9 who regularly assist in the office or library, mentor or
10 tutor students, coach or supervise a school-sponsored
11 activity before or after school, or chaperone students on an
12 overnight trip. Screened volunteers may only access student
13 education records when necessary to assist the district and
14 while supervised by staff members. Volunteers that are not
15 screened shall not be left alone with a student or have
16 access to student records.

17 2. **(1)** The school district shall ensure that a
18 criminal background check is conducted on any person

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

19 employed after January 1, 2005, authorized to have contact
20 with pupils and prior to the individual having contact with
21 any pupil. Such persons include, but are not limited to,
22 administrators, teachers, aides, paraprofessionals,
23 assistants, secretaries, custodians, cooks, screened
24 volunteers, and nurses.

25 **(2)** The school district shall also ensure that a
26 criminal background check is conducted for school bus
27 drivers. The district may allow such drivers to operate
28 buses pending the result of the criminal background check.
29 For bus drivers, the school district shall be responsible
30 for conducting the criminal background check on drivers
31 employed by the school district. For drivers employed by a
32 pupil transportation company under contract with the school
33 district, the criminal background check shall be conducted
34 pursuant to section 43.540 and conform to the requirements
35 established in the National Child Protection Act of 1993, as
36 amended by the Volunteers for Children Act.

37 **(3)** The school district shall also ensure that a
38 criminal background check is conducted on any person who is
39 eighteen years of age or older, who is not counted by the
40 district for purposes of average daily attendance, as
41 defined in section 163.011, and who requests enrollment in a
42 course that takes place on school district property during
43 regular school hours and that includes students counted by
44 the district for purposes of average daily attendance, as
45 defined in section 163.011. The background check shall be
46 conducted before the person enrolls in any such course.

47 **(4)** Personnel who have successfully undergone a
48 criminal background check and a check of the family care
49 safety registry as part of the professional license
50 application process under section 168.021 and who have

51 received clearance on the checks within one prior year of
52 employment shall be considered to have completed the
53 background check requirement.

54 (5) A criminal background check under this section
55 shall include a search of any information publicly available
56 in an electronic format through a public index or single
57 case display.

58 3. In order to facilitate the criminal history
59 background check, the applicant **or person requesting**
60 **enrollment in a course as described in this section** shall
61 submit a set of fingerprints collected [pursuant to
62 standards determined by the Missouri highway patrol] **under**
63 **section 43.540**. The fingerprints shall be used by the
64 highway patrol to search the criminal history repository and
65 shall be forwarded to the Federal Bureau of Investigation
66 for searching the federal criminal history files.

67 4. The applicant **or person requesting enrollment**
68 **in a course as described in this section** shall pay the fee
69 for the state criminal history record information pursuant
70 to section 43.530 and sections 210.900 to 210.936 and pay
71 the appropriate fee determined by the Federal Bureau of
72 Investigation for the federal criminal history record when
73 he or she applies for a position authorized to have contact
74 with pupils pursuant to this section **or requests enrollment**
75 **in a course as described in this section**. The department
76 shall distribute the fees collected for the state and
77 federal criminal histories to the Missouri highway patrol.

78 5. The department of elementary and secondary
79 education shall facilitate an annual check of employed
80 persons holding current active certificates under section
81 168.021 against criminal history records in the central
82 repository under section 43.530, the sexual offender

83 registry under sections 589.400 to 589.426, and child abuse
84 central registry under sections 210.109 to 210.183. The
85 department of elementary and secondary education shall
86 facilitate procedures for school districts to submit
87 personnel information annually for persons employed by the
88 school districts who do not hold a current valid certificate
89 who are required by subsection 1 of this section to undergo
90 a criminal background check, sexual offender registry check,
91 and child abuse central registry check. [The Missouri state
92 highway patrol shall provide ongoing electronic updates to
93 criminal history background checks of those persons
94 previously submitted, both those who have an active
95 certificate and those who do not have an active certificate,
96 by the department of elementary and secondary education.
97 This shall fulfill the annual check against the criminal
98 history records in the central repository under section
99 43.530.] **State and federal fingerprint-based criminal record
100 checks submitted under section 43.540 shall satisfy the
101 annual criminal background check and sexual offender
102 registry check required by this section.**

103 6. The school district may adopt a policy to
104 provide for reimbursement of expenses incurred by an
105 employee for state and federal criminal history information
106 pursuant to section 43.530.

107 7. If, as a result of the criminal history
108 background check mandated by this section, it is determined
109 that the holder of a certificate issued pursuant to section
110 168.021 has pled guilty or nolo contendere to, or been found
111 guilty of a crime or offense listed in section 168.071, or a
112 similar crime or offense committed in another state, the
113 United States, or any other country, regardless of

114 imposition of sentence, such information shall be reported
115 to the department of elementary and secondary education.

116 8. Any school official making a report to the
117 department of elementary and secondary education in
118 conformity with this section shall not be subject to civil
119 liability for such action.

120 9. For any teacher who is employed by a school
121 district on a substitute or part-time basis within one year
122 of such teacher's retirement from a Missouri school, the
123 state of Missouri shall not require such teacher to be
124 subject to any additional background checks prior to having
125 contact with pupils. Nothing in this subsection shall be
126 construed as prohibiting or otherwise restricting a school
127 district from requiring additional background checks for
128 such teachers employed by the school district.

129 10. A criminal background check and fingerprint
130 collection conducted under subsections 1 to 3 of this
131 section shall be valid for at least a period of one year and
132 transferrable from one school district to another district.
133 A school district may, in its discretion, conduct a new
134 criminal background check and fingerprint collection under
135 subsections 1 to 3 **of this section** for a newly hired
136 employee at the district's expense. A teacher's change in
137 type of certification shall have no effect on the
138 transferability or validity of such records.

139 11. Nothing in this section shall be construed to
140 alter the standards for suspension, denial, or revocation of
141 a certificate issued pursuant to this chapter.

142 12. **If, as a result of the criminal history**
143 **background check mandated by this section, it is determined**
144 **that a person who requested enrollment in a course as**
145 **described in this section has pled guilty or nolo contendere**

146 to or been found guilty of a crime or offense listed in
147 subsection 6 of section 168.071, or a similar crime or
148 offense committed in another state, the United States, or
149 any other country, regardless of imposition of sentence, the
150 school district shall prohibit the person from enrolling in
151 any course that takes place on school property during
152 regular school hours and that includes students counted by
153 the district for purposes of average daily attendance, as
154 defined in section 163.011.

155 13. The state board of education may promulgate rules
156 for criminal history background checks made pursuant to this
157 section. Any rule or portion of a rule, as that term is
158 defined in section 536.010, that is created under the
159 authority delegated in this section shall become effective
160 only if it complies with and is subject to all of the
161 provisions of chapter 536 and, if applicable, section
162 536.028. This section and chapter 536 are nonseverable, and
163 if any of the powers vested with the general assembly
164 pursuant to chapter 536 to review, to delay the effective
165 date, or to disapprove and annul a rule are subsequently
166 held unconstitutional, then the grant of rulemaking
167 authority and any rule proposed or adopted after January 1,
168 2005, shall be invalid and void.

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