

SECOND REGULAR SESSION

HOUSE BILL NO. 1483

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REHDER.

3281H.011

DANA RADEMAN MILLER, Chief Clerk

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Section A. Section 168.133, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.133, to read as follows:

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

2. **(1)** The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, screened volunteers, and nurses.

(2) The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 of the criminal background check. For bus drivers, the school district shall be responsible for
19 conducting the criminal background check on drivers employed by the school district. For
20 drivers employed by a pupil transportation company under contract with the school district, the
21 criminal background check shall be conducted pursuant to section 43.540 and conform to the
22 requirements established in the National Child Protection Act of 1993, as amended by the
23 Volunteers for Children Act.

24 **(3) The school district shall also ensure that a criminal background check is**
25 **conducted on any person who is eighteen years of age or older, who is not counted by the**
26 **district for purposes of average daily attendance, as defined in section 163.011, and who**
27 **requests enrollment in a course that takes place on school district property during regular**
28 **school hours and that includes students counted by the district for purposes of average**
29 **daily attendance, as defined in section 163.011. The background check shall be conducted**
30 **before the person enrolls in any such course.**

31 **(4)** Personnel who have successfully undergone a criminal background check and a
32 check of the family care safety registry as part of the professional license application process
33 under section 168.021 and who have received clearance on the checks within one prior year of
34 employment shall be considered to have completed the background check requirement.

35 **(5)** A criminal background check under this section shall include a search of any
36 information publicly available in an electronic format through a public index or single case
37 display.

38 3. In order to facilitate the criminal history background check, the applicant **or person**
39 **requesting enrollment in a course as described in this section** shall submit a set of
40 fingerprints collected ~~[pursuant to standards determined by the Missouri highway patrol]~~ **under**
41 **section 43.540.** The fingerprints shall be used by the highway patrol to search the criminal
42 history repository and shall be forwarded to the Federal Bureau of Investigation for searching the
43 federal criminal history files.

44 4. The applicant **or person requesting enrollment in a course as described in this**
45 **section** shall pay the fee for the state criminal history record information pursuant to section
46 43.530 and sections 210.900 to 210.936 and pay the appropriate fee determined by the Federal
47 Bureau of Investigation for the federal criminal history record when he or she applies for a
48 position authorized to have contact with pupils pursuant to this section **or requests enrollment**
49 **in a course as described in this section.** The department shall distribute the fees collected for
50 the state and federal criminal histories to the Missouri highway patrol.

51 5. The department of elementary and secondary education shall facilitate an annual check
52 of employed persons holding current active certificates under section 168.021 against criminal
53 history records in the central repository under section 43.530, the sexual offender registry under

54 sections 589.400 to 589.426, and child abuse central registry under sections 210.109 to 210.183.
55 The department of elementary and secondary education shall facilitate procedures for school
56 districts to submit personnel information annually for persons employed by the school districts
57 who do not hold a current valid certificate who are required by subsection 1 of this section to
58 undergo a criminal background check, sexual offender registry check, and child abuse central
59 registry check. ~~[The Missouri state highway patrol shall provide ongoing electronic updates to
60 criminal history background checks of those persons previously submitted, both those who have
61 an active certificate and those who do not have an active certificate, by the department of
62 elementary and secondary education. This shall fulfill the annual check against the criminal
63 history records in the central repository under section 43.530.]~~ **State and federal fingerprint-
64 based criminal record checks submitted under section 43.540 shall satisfy the annual
65 criminal background check and sexual offender registry check required by this section.**

66 6. The school district may adopt a policy to provide for reimbursement of expenses
67 incurred by an employee for state and federal criminal history information pursuant to section
68 43.530.

69 7. If, as a result of the criminal history background check mandated by this section, it is
70 determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or
71 nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a
72 similar crime or offense committed in another state, the United States, or any other country,
73 regardless of imposition of sentence, such information shall be reported to the department of
74 elementary and secondary education.

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

77 9. For any teacher who is employed by a school district on a substitute or part-time basis
78 within one year of such teacher's retirement from a Missouri school, the state of Missouri shall
79 not require such teacher to be subject to any additional background checks prior to having
80 contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
81 restricting a school district from requiring additional background checks for such teachers
82 employed by the school district.

83 10. A criminal background check and fingerprint collection conducted under subsections
84 1 to 3 of this section shall be valid for at least a period of one year and transferrable from one
85 school district to another district. A school district may, in its discretion, conduct a new criminal
86 background check and fingerprint collection under subsections 1 to 3 **of this section** for a newly
87 hired employee at the district's expense. A teacher's change in type of certification shall have no
88 effect on the transferability or validity of such records.

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

91 12. **If, as a result of the criminal history background check mandated by this**
92 **section, it is determined that a person who requested enrollment in a course as described**
93 **in this section has pled guilty or nolo contendere to or been found guilty of a crime or**
94 **offense listed in subsection 6 of section 168.071, or a similar crime or offense committed in**
95 **another state, the United States, or any other country, regardless of imposition of sentence,**
96 **the school district shall prohibit the person from enrolling in any course that takes place**
97 **on school property during regular school hours and that includes students counted by the**
98 **district for purposes of average daily attendance, as defined in section 163.011.**

99 13. The state board of education may promulgate rules for criminal history background
100 checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in
101 section 536.010, that is created under the authority delegated in this section shall become
102 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
103 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the
104 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
105 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
106 rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and
107 void.

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