

SECOND REGULAR SESSION

HOUSE BILL NO. 2937

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIDSON.

5389H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 167.031, 210.211, and 452.375, RSMo, and to enact in lieu thereof six new sections relating to elementary and secondary education.

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

Section A. Sections 167.031, 210.211, and 452.375, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 163.431, 167.012, 167.013, 167.031, 210.211, and 452.375, to read as follows:

163.431. 1. This section shall be known and may be cited as the "Student Opportunity Savings Accounts Program".

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

(1) "Approved educational entity", any of the following in this state that meets the qualifications for approval in this section or is designated as an approved educational entity by the governor:

(a) A family-paced education school;

(b) A parochial school;

(c) A private school;

(d) A school district;

(e) A charter school; or

(f) A virtual school;

(2) "Elementary school", a school district or charter school giving instruction in a grade or grades not higher than grade eight;

(3) "Eligible per-pupil payment", an amount, rounded to the nearest whole dollar, equal to the per-pupil payment as computed under subsection 4 of this section;

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.

- 17 **(4) "Eligible pupil", an individual who:**
18 **(a) Is at least five years of age but not older than twenty-one years of age;**
19 **(b) Is a resident of this state;**
20 **(c) Is eligible to enroll in an elementary or high school in this state; and**
21 **(d) Participates in the student opportunity savings accounts program;**
22 **(5) "Gifted per-pupil payment", the amount, rounded to the nearest whole**
23 **dollar, computed for gifted pupils under this section;**
24 **(6) "Gifted pupil", an individual who meets the definition of gifted children**
25 **under section 162.675 and who is either:**
26 **(a) An eligible pupil; or**
27 **(b) A school district pupil;**
28 **(7) "High school", a school district or charter school giving instruction in a**
29 **grade or grades not lower than grade nine nor higher than grade twelve;**
30 **(8) "Per-pupil payment", the amount, rounded to the nearest whole dollar,**
31 **computed by the state treasurer under subsection 4 of this section;**
32 **(9) "Qualified educational expenses", amounts paid for the following:**
33 **(a) Tuition, fees, and other related expenses required for enrollment in an**
34 **approved educational entity;**
35 **(b) Tuition, fees, and other related expenses for an online course of instruction**
36 **offered by an approved educational entity;**
37 **(c) Costs related to purchases of curricula for family-paced education school**
38 **instruction;**
39 **(d) Books, school supplies, and equipment required for a course of instruction;**
40 **(e) Tutoring costs;**
41 **(f) Therapy related to special educational services; and**
42 **(g) Other allowable educational expenses as determined by the governor;**
43 **(10) "School district pupil", an individual who is:**
44 **(a) At least five years of age but not older than twenty-one years of age;**
45 **(b) A resident of this state;**
46 **(c) Eligible to enroll in an elementary school or high school in this state; and**
47 **(d) Not a participant in the student opportunity savings accounts program;**
48 **(11) "Special education per-pupil payment", the amount, rounded to the nearest**
49 **whole dollar, computed for special education pupils under this section;**
50 **(12) "Special education pupil", an individual who qualifies for special**
51 **educational services under state law and who is either:**
52 **(a) An eligible pupil; or**
53 **(b) A school district pupil.**

54 **3. (1) (a) There is hereby created in the state treasury the "Student Opportunity**
55 **Savings Accounts Program Fund", which shall consist of moneys transferred for**
56 **student opportunity savings accounts program purposes under this section. The state**
57 **treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,**
58 **the state treasurer may approve disbursements. The fund shall be a dedicated fund and,**
59 **upon appropriation, moneys in this fund shall be used solely as provided in this section.**

60 **(b) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
61 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
62 **general revenue fund.**

63 **(c) The state treasurer shall invest moneys in the fund in the same manner as**
64 **other funds are invested. Any interest and moneys earned on such investments shall be**
65 **credited to the fund.**

66 **(2) (a) There is hereby created in the state treasury the "School District Per-**
67 **Pupil Payments Fund", which shall consist of moneys appropriated for education under**
68 **this section. The state treasurer shall be custodian of the fund. In accordance with**
69 **sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund**
70 **shall be a dedicated fund and, upon appropriation, moneys in this fund shall be used**
71 **solely as provided in this section.**

72 **(b) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
73 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
74 **general revenue fund.**

75 **(c) The state treasurer shall invest moneys in the fund in the same manner as**
76 **other funds are invested. Any interest and moneys earned on such investments shall be**
77 **credited to the fund.**

78 **4. (1) Notwithstanding any other provision of law to the contrary, for the 2025-**
79 **26 school year and all subsequent school years, all moneys appropriated by the general**
80 **assembly for the education of pupils shall be placed in the school district per-pupil**
81 **payments fund for transfers and disbursements as provided in this subsection.**

82 **(2) Appropriations to and transfers and disbursements from the school district**
83 **per-pupil payments fund shall be calculated as follows and transferred and disbursed in**
84 **the following order:**

85 **(a) At least twenty-five percent of the state revenue, as described in Article IX,**
86 **Section 3(b) of the Constitution of Missouri, shall be appropriated annually to the school**
87 **district per-pupil payments fund;**

88 **(b) The state treasurer shall transfer eight percent of the moneys appropriated**
89 **to the school district per-pupil payments fund under paragraph (a) of this subdivision to**
90 **the classroom trust fund established in section 163.043, to be used solely to supplement,**

91 not supplant, moneys used for teacher salaries from the moneys disbursed to school
92 districts under paragraph (e) of this subdivision;

93 (c) The state treasurer shall calculate a per-pupil payment, using pupil data
94 provided by the department of elementary and secondary education, based on the total
95 number of special education pupils, gifted pupils, eligible pupils, and resident full-time
96 pupils and the full-time equivalent number of part-time pupils who are school district
97 pupils, after which the state treasurer shall adjust each special education per-pupil
98 payment and gifted per-pupil payment to ensure that each special education per-pupil
99 payment is equal to one hundred seventy-five percent of such per-pupil payment, each
100 gifted per-pupil payment is equal to one hundred twenty-five percent of such per-pupil
101 payment, and each eligible per-pupil payment is equal to such per-pupil payment;

102 (d) After the state treasurer calculates the amounts described in paragraph (c) of
103 this subdivision, the state treasurer shall transfer the total amount of special education
104 per-pupil payments, gifted per-pupil payments, and eligible per-pupil payments
105 designated for participants in the student opportunity savings accounts program who
106 are special education pupils, gifted pupils, or eligible pupils to the student opportunity
107 savings accounts program fund for disbursements to student opportunity savings
108 accounts as provided in this section; and

109 (e) After the state treasurer transfers the amounts described in paragraph (d) of
110 this subdivision, the state treasurer shall disburse the total amount of special education
111 per-pupil payments, gifted per-pupil payments, and school district per-pupil payments
112 designated for nonparticipants in the student opportunity savings accounts program
113 who are special education pupils, gifted pupils, or school district pupils and disburse the
114 remainder of the moneys in the school district per-pupil payments fund to school
115 districts as provided in this section.

116 (3) Moneys shall be disbursed:

117 (a) Monthly to school districts and charter schools based on the average number
118 of resident full-time students and the full-time equivalent number of part-time students
119 who were enrolled in the school district or charter school in the previous month, as
120 calculated by the state treasurer, to provide moneys for school districts and charter
121 schools; and

122 (b) Semiannually to student opportunity savings accounts to reimburse each
123 pupil participating in the student opportunity savings accounts program for qualified
124 educational expenses incurred by the pupil.

125 (4) The state treasurer shall establish student opportunity savings accounts for
126 each individual who participates in the student opportunity savings accounts program.
127 A pupil shall submit an application for participation in the program.

128 **(5) The state treasurer may provide a debit card or a similar mechanism to each**
129 **pupil in the student opportunity savings accounts program to allow each pupil to access**
130 **moneys in the pupil's student opportunity savings account for qualified educational**
131 **expenses.**

132 **(6) The amount provided in paragraph (a) of subdivision (2) of this subsection**
133 **may be adjusted by a supplemental appropriation bill. The state treasurer may consult**
134 **with the department of elementary and secondary education, the department of**
135 **revenue, and other sources in estimating the projected additional revenues needed for**
136 **such purpose.**

137 **5. (1) Approved educational entities that are school districts or charter schools**
138 **may establish resident tuition rates for pupils who reside in the school district and**
139 **nonresident tuition rates for pupils who do not reside within the school district.**
140 **Resident tuition rates may be lower than nonresident tuition rates. If a pupil uses**
141 **moneys from the pupil's student opportunity savings account to attend a school district**
142 **or charter school, the school district or charter school shall charge the pupil the**
143 **established resident tuition rate if the pupil is a resident of the school district or the**
144 **established nonresident rate if the pupil is not a resident of the school district.**

145 **(2) A pupil who participates in the student opportunity savings accounts**
146 **program shall agree that such pupil will not terminate participation in the program and**
147 **enroll in the pupil's resident school district unless the pupil agrees to pay the school**
148 **district or charter school the resident tuition rate for one full semester after terminating**
149 **participation in the program.**

150 **6. Pupils in the student opportunity savings accounts program shall take an**
151 **annual state-approved pupil assessment that satisfies the federal pupil testing mandates**
152 **in effect under the federal Every Student Succeeds Act, Pub. L. 114-95, as amended, and**
153 **any applicable modifications or waivers approved under such federal law. Failure to**
154 **comply with program requirements shall result in the loss of disbursements in the school**
155 **year immediately following such failure to comply with such requirements.**

156 **7. (1) Except as provided in subdivisions (2) and (3) of this subsection, any**
157 **moneys in a pupil's student opportunity savings account that are not used for qualified**
158 **educational expenses in a school year shall remain in such pupil's student opportunity**
159 **savings account. After receiving a diploma or the equivalent from an approved**
160 **educational entity, a pupil may use unexpended moneys in the pupil's student**
161 **opportunity savings account for costs related to higher education expenses, trade**
162 **school expenses, or for a first-time home purchase in this state.**

163 **(2) Moneys remaining in a special education pupil's student opportunity savings**
164 **account shall not remain in such pupil's student opportunity savings account after such**

165 pupil receives a diploma or the equivalent from an approved educational entity. A
166 special education pupil who is no longer classified as a special education pupil shall be
167 eligible to have such pupil's moneys remain in such pupil's student opportunity savings
168 account upon reclassification as an eligible pupil or a gifted pupil.

169 (3) No moneys shall remain in a pupil's student opportunity savings account if
170 the pupil withdraws from the program at any time because of fraud.

171 8. An educational entity that is not a home school shall meet the following
172 qualifications to be designated as an approved educational entity:

173 (1) Provide the governor or state treasurer, upon request, with criminal
174 background checks on all its administrators and employees and exclude from
175 employment or governance any individual who might reasonably pose a risk to the
176 appropriate use of moneys received from pupils under this section;

177 (2) Demonstrate financial accountability by:

178 (a) Submitting to the governor and state treasurer annual audit financial
179 statements by a certified public accountant within six months of the end of the
180 educational entity's fiscal year; and

181 (b) Having an auditor certify that the report is free of material misstatements;

182 (3) Ensure that participating pupils take the state achievement tests or
183 nationally norm-referenced tests that measure learning gains in math and English
184 language arts and provide for value-added assessment in grades that require testing
185 under the statewide assessment system set forth in section 160.518;

186 (4) Allow costs of the testing requirements to be covered by the moneys provided
187 to the educational entity;

188 (5) Provide the parents of each pupil who was tested with a copy of the results of
189 the tests on an annual basis, beginning with the first year of testing;

190 (6) Provide the test results to the governor and state treasurer on an annual
191 basis, beginning with the first year of testing;

192 (7) Report pupil information that would allow the state treasurer to aggregate
193 data by grade level, gender, family income level, and race; and

194 (8) Provide rates of diplomas or the equivalent issued by approved educational
195 entities, college attendance, and college graduation for participating pupils to the
196 governor and state treasurer in a manner consistent with nationally recognized
197 standards.

198 9. This section shall not be construed to permit any governmental agency to
199 exercise control or supervision over any approved educational entity in which an eligible
200 pupil, gifted pupil, or special education pupil enrolls, other than an approved
201 educational entity that is a school district or charter school.

202 **10. An approved educational entity, other than an approved educational entity**
203 **that is a school district or charter school, that accepts a payment from a pupil under this**
204 **section shall not be considered an agent of the state or federal government due to such**
205 **entity's acceptance of the payment.**

206 **11. An approved educational entity shall not be required to alter such entity's**
207 **creed, practices, admissions policy, or curricula in order to accept pupils whose parents**
208 **pay tuition or fees from a student opportunity savings account to participate as an**
209 **approved educational entity.**

210 **12. In any legal proceeding challenging the application of this section to an**
211 **approved educational entity, the state shall bear the burden of establishing that the law**
212 **is necessary and does not impose any undue burden on such approved educational**
213 **entity.**

167.012. 1. For purposes of state law, a "home school" is a school, whether
2 **incorporated or unincorporated, that:**

3 **(1) Has as its primary purpose the provision of private or religious-based**
4 **instruction;**

5 **(2) Enrolls children seven years of age or older and under the compulsory**
6 **attendance age for the school district in which the home school is located, of which no**
7 **more than four are unrelated by affinity or consanguinity in the third degree;**

8 **(3) Does not charge or receive consideration in the form of tuition, fees, or other**
9 **remuneration in a genuine and fair exchange for provision of instruction;**

10 **(4) Does not enroll children who participate in the program established in**
11 **section 163.431 or the program established in sections 135.712 to 135.719 and sections**
12 **166.700 to 166.720; and**

13 **(5) Is not a family-paced education school.**

14 **2. (1) Except as otherwise provided in this subsection, as evidence that a child is**
15 **receiving regular instruction, the child's parent, guardian, or other person having**
16 **control or custody of the child shall:**

17 **(a) Maintain the following records:**

18 **a. (i) A plan book, diary, or other written record indicating subjects taught and**
19 **activities engaged in;**

20 **(ii) A portfolio of samples of the child's academic work; and**

21 **(iii) A record of evaluations of the child's academic progress; or**

22 **b. Other written or credible evidence equivalent to items (i) to (iii) of**
23 **subparagraph a. of this paragraph; and**

24 **(b) Offer at least one thousand hours of instruction, at least six hundred hours of**
25 **which shall be in reading, language arts, mathematics, social studies, science, or**

26 academic courses that are related to such subject areas and consonant with the child's
27 age and ability. At least four hundred of the six hundred hours shall occur at the
28 regular home school location.

29 (2) The requirements of subdivision (1) of this subsection shall not apply to any
30 pupil sixteen years of age or older.

31 3. The production of a daily log by a parent, guardian, or other person having
32 control or custody of a child showing that a home school has a course of instruction that
33 satisfies the requirements of this section and section 167.031 or, in the case of a pupil
34 sixteen years of age or older who attended a metropolitan school district the previous
35 year, a written statement that the pupil is attending home school in compliance with
36 section 167.031 shall be a defense to any prosecution under section 167.031 and to any
37 charge or action for educational neglect brought under chapter 210.

38 4. Home school education enforcement and records maintained under this
39 section, section 210.167, and section 211.031 shall be subject to review only by the local
40 prosecuting attorney.

167.013. 1. For purposes of state law, a "family-paced education school" is a
2 school, whether incorporated or unincorporated, that:

3 (1) Has as its primary purpose the provision of private or religious-based
4 instruction;

5 (2) Enrolls children seven years of age or older and under the compulsory
6 attendance age for the school district in which the family-paced education school is
7 located, of which no more than four are unrelated by affinity or consanguinity in the
8 third degree;

9 (3) Does not charge or receive consideration in the form of tuition, fees, or other
10 remuneration in a genuine and fair exchange for provision of instruction; and

11 (4) May enroll children who participate in the program established in section
12 163.431 or the program established in sections 135.712 to 135.719 and sections 166.700
13 to 166.720, provided that any state laws or regulations that apply to pupils who
14 participate in such program shall not apply to family-paced education school pupils who
15 do not participate in such program. This subdivision shall not be construed to grant
16 regulatory oversight or rulemaking authority over family-paced education schools or
17 family-paced education school pupils to any state agency unless such oversight or
18 authority is delegated under state law with specific reference to this section.

19 2. (1) Except as otherwise provided in this subsection, as evidence that a child is
20 receiving regular instruction, the child's parent, guardian, or other person having
21 control or custody of the child shall:

22 (a) Maintain the following records:

23 **a. (i) A plan book, diary, or other written record indicating subjects taught and**
24 **activities engaged in;**

25 **(ii) A portfolio of samples of the child's academic work; and**

26 **(iii) A record of evaluations of the child's academic progress; or**

27 **b. Other written or credible evidence equivalent to items (i) to (iii) of**
28 **subparagraph a. of this paragraph; and**

29 **(b) Offer at least one thousand hours of instruction, at least six hundred hours of**
30 **which shall be in reading, language arts, mathematics, social studies, science, or**
31 **academic courses that are related to such subject areas and consonant with the child's**
32 **age and ability. At least four hundred of the six hundred hours shall occur at the**
33 **regular family-paced education school location.**

34 **(2) The requirements of subdivision (1) of this subsection shall not apply to any**
35 **pupil sixteen years of age or older.**

36 **3. The production of a daily log by a parent, guardian, or other person having**
37 **control or custody of a child showing that a family-paced education school has a course**
38 **of instruction that satisfies the requirements of this section and section 167.031 or, in the**
39 **case of a pupil sixteen years of age or older who attended a metropolitan school district**
40 **the previous year, a written statement that the pupil is attending a family-paced**
41 **education school in compliance with section 167.031 shall be a defense to any**
42 **prosecution under section 167.031 and to any charge or action for educational neglect**
43 **brought under chapter 210.**

44 **4. Family-paced education school education enforcement and records**
45 **maintained under this section, section 210.167, and section 211.031 shall be subject to**
46 **review only by the local prosecuting attorney.**

167.031. 1. **(1) Every parent, guardian, or other person in this state having charge,**
2 **control, or custody of a child [not-enrolled] is responsible for enrolling the child in a**
3 **program of academic instruction in a [public] school district, charter school, private,**
4 **parochial, parish school, home school, family-paced education school, or full-time**
5 **equivalent attendance in a combination of such schools [and] between the ages of seven**
6 **years and the compulsory attendance age for the district [is responsible for enrolling the child**
7 **in a program of academic instruction which complies with subsection 2 of this section].**

8 **(2) Any parent, guardian, or other person who enrolls a child between the ages of five**
9 **and seven years in a [public] school district or charter school program of academic**
10 **instruction shall cause such child to attend the academic program on a regular basis,**
11 **according to this section. Nonattendance by such child shall cause such parent, guardian, or**
12 **other responsible person to be in violation of the provisions of section 167.061, except as**
13 **provided by this section. A parent, guardian, or other person in this state having charge,**

14 control, or custody of a child between the ages of seven years of age and the compulsory
 15 attendance age for the district shall cause the child to attend regularly some ~~[public]~~ **school**
 16 **district, charter school**, private, parochial, parish, home school, **family-paced education**
 17 **school**, or a combination of such schools not less than the entire school term of the school
 18 ~~[which]~~ **that** the child attends; except that:

19 ~~[(1)]~~ **(a)** A child who, to the satisfaction of the superintendent ~~[of public schools]~~ of
 20 the district in which ~~[he]~~ **such child** resides, or if there is no superintendent then the chief
 21 school officer, is determined to be mentally or physically incapacitated may be excused from
 22 attendance at school for the full time required, or any part thereof;

23 ~~[(2)]~~ **(b)** A child between fourteen years of age and the compulsory attendance age for
 24 the district may be excused from attendance at school for the full time required, or any part
 25 thereof, by the superintendent ~~[of public schools]~~ of the district, or if there is none then by a
 26 court of competent jurisdiction, when legal employment has been obtained by the child and
 27 found to be desirable, and after the parents or guardian of the child have been advised of the
 28 pending action; or

29 ~~[(3)]~~ **(c)** A child between five and seven years of age shall be excused from
 30 attendance at school if a parent, guardian, or other person having charge, control, or custody
 31 of the child makes a written request that the child be dropped from the school's rolls.

32 2. ~~[(1) As used in sections 167.031 to 167.071, a "home school" is a school, whether~~
 33 ~~incorporated or unincorporated, that:~~

34 ~~(a) Has as its primary purpose the provision of private or religious based instruction;~~

35 ~~(b) Enrolls pupils between the ages of seven years and the compulsory attendance age~~
 36 ~~for the district, of which no more than four are unrelated by affinity or consanguinity in the~~
 37 ~~third degree; and~~

38 ~~(c) Does not charge or receive consideration in the form of tuition, fees, or other~~
 39 ~~remuneration in a genuine and fair exchange for provision of instruction.~~

40 ~~(2) As evidence that a child is receiving regular instruction, the parent shall, except as~~
 41 ~~otherwise provided in this subsection:~~

42 ~~(a) Maintain the following records:~~

43 ~~a. A plan book, diary, or other written record indicating subjects taught and activities~~
 44 ~~engaged in; and~~

45 ~~b. A portfolio of samples of the child's academic work; and~~

46 ~~c. A record of evaluations of the child's academic progress; or~~

47 ~~d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and~~

48 ~~(b) Offer at least one thousand hours of instruction, at least six hundred hours of~~
 49 ~~which will be in reading, language arts, mathematics, social studies and science or academic~~
 50 ~~courses that are related to the aforementioned subject areas and consonant with the pupil's age~~

51 and ability. At least four hundred of the six hundred hours shall occur at the regular home
52 school location.

53 ~~(3) The requirements of subdivision (2) of this subsection shall not apply to any pupil~~
54 ~~above the age of sixteen years.~~

55 ~~3.]~~ Nothing in this section shall require a private, parochial, parish [~~or~~], home school,
56 **or family-paced education school** to include in its curriculum any concept, topic, or practice
57 in conflict with the school's religious doctrines or to exclude from its curriculum any concept,
58 topic, or practice consistent with the school's religious doctrines. Any other provision of the
59 law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall
60 be prohibited from dictating through rule, regulation, or other device any statewide
61 curriculum for private, parochial, parish [~~or~~], home schools, **or family-paced education**
62 **schools.**

63 ~~[4.]~~ **3.** A school year begins on the first day of July and ends on the thirtieth day of
64 June following.

65 ~~[5. The production by a parent of a daily log showing that a home school has a course~~
66 ~~of instruction which satisfies the requirements of this section or, in the case of a pupil over the~~
67 ~~age of sixteen years who attended a metropolitan school district the previous year, a written~~
68 ~~statement that the pupil is attending home school in compliance with this section shall be a~~
69 ~~defense to any prosecution under this section and to any charge or action for educational~~
70 ~~neglect brought pursuant to chapter 210.~~

71 ~~6.]~~ **4. (1)** As used in [~~sections 167.031 to 167.051]~~ **this section**, the term
72 "compulsory attendance age for the district" shall mean:

73 ~~[(1)]~~ **(a)** Seventeen years of age for any metropolitan school district for which the
74 school board adopts a resolution to establish such compulsory attendance age; provided that
75 such resolution shall take effect no earlier than the school year next following the school year
76 during which the resolution is adopted; and

77 ~~[(2)]~~ **(b)** Seventeen years of age or having successfully completed sixteen credits
78 towards high school graduation in all other cases.

79 **(2)** The school board of a metropolitan school district for which the compulsory
80 attendance age is seventeen years may adopt a resolution to lower the compulsory attendance
81 age to sixteen years; provided that such resolution shall take effect no earlier than the school
82 year next following the school year during which the resolution is adopted.

83 ~~[7.]~~ **5.** For purposes of [~~subsection 2 of this section]~~ **home school or family-paced**
84 **education school credits toward high school graduation**, as applied in subsection [~~6~~
85 ~~herein]~~ **4 of this section**, a "completed credit towards high school graduation" shall be
86 defined as one hundred hours or more of instruction in a course. [~~Home school education~~

87 ~~enforcement and records pursuant to this section, and sections 210.167 and 211.031, shall be~~
88 ~~subject to review only by the local prosecuting attorney.]~~

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a
2 child-care facility for children, or to advertise or hold himself or herself out as being able to
3 perform any of the services as defined in section 210.201, without having in effect a written
4 license granted by the department of elementary and secondary education; except that nothing
5 in sections 210.203 to 210.245 shall apply to:

6 (1) Any person who is caring for six or fewer children, including a maximum of three
7 children under the age of two, at the same physical address. For purposes of this subdivision,
8 children who live in the caregiver's home and who are eligible for enrollment in a ~~public~~
9 kindergarten, elementary, or high school shall not be considered in the total number of
10 children being cared for;

11 (2) Any person who receives free of charge, and not as a business, for periods not
12 exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or
13 children of personal friends of such person, and who receives custody of no other unrelated
14 child or children;

15 (3) Any graded boarding school that is conducted in good faith primarily to provide
16 education;

17 (4) Any summer or day camp that is conducted in good faith primarily to provide
18 recreation;

19 (5) Any hospital, sanitarium, or home that is conducted in good faith primarily to
20 provide medical treatment or nursing or convalescent care for children;

21 (6) Any residential facility or day program licensed by the department of mental
22 health under sections 630.705 to 630.760 that provides care, treatment, and habilitation
23 exclusively to children who have a primary diagnosis of mental disorder, mental illness,
24 intellectual disability, or developmental disability, as those terms are defined in section
25 630.005;

26 (7) Any school system as defined in section 210.201;

27 (8) Any Montessori school as defined in section 210.201;

28 (9) Any business that operates a child care program for the convenience of its
29 customers or its employees if the following conditions are met:

30 (a) The business provides child care for customers' or employees' children for no
31 more than four hours per day; and

32 (b) Customers or employees remain on site while their children are being cared for by
33 the business establishment;

34 (10) Any home school ~~[as defined in section 167.031];~~

35 (11) Any religious organization academic preschool or kindergarten for four- and
36 five-year-old children;

37 (12) Any weekly Sunday or Sabbath school, a vacation bible school, or child care
38 made available while the parents or guardians are attending worship services or other
39 meetings and activities conducted or sponsored by a religious organization;

40 (13) Any neighborhood youth development program under section 210.278;

41 (14) Any religious organization elementary or secondary school;

42 (15) Any private organization elementary or secondary school system providing child
43 care to children younger than school age. If a facility or program is exempt from licensure
44 based upon this exception, such facility or program shall submit documentation annually to
45 the department to verify its licensure-exempt status;

46 (16) Any nursery school as defined in section 210.201; ~~and~~

47 (17) Any child care facility maintained or operated under the exclusive control of a
48 religious organization. If a nonreligious organization having as its principal purpose the
49 provision of child care services enters into an arrangement with a religious organization for
50 the maintenance or operation of a child care facility, the facility is not under the exclusive
51 control of the religious organization; **and**

52 **(18) Any family-paced education school.**

53 2. Notwithstanding the provisions of subsection 1 of this section, no child-care
54 facility shall be exempt from licensure if such facility receives any state or federal funds for
55 providing care for children, except for federal funds for those programs which meet the
56 requirements for participation in the Child and Adult Care Food Program pursuant to 42
57 U.S.C. Section 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257
58 shall not be construed to be funds received by a person or facility listed in ~~subdivisions (1)~~
59 ~~and (17) of~~ subsection 1 of this section.

60 3. Every child care facility shall disclose the licensure status of the facility to the
61 parents or guardians of children for which the facility provides care. No child care facility
62 exempt from licensure shall represent to any parent or guardian of children for which the
63 facility provides care that the facility is licensed when such facility is in fact not licensed. A
64 parent or guardian utilizing an unlicensed child care facility shall sign a written notice
65 indicating he or she is aware of the unlicensed status of the facility. The facility shall keep a
66 copy of this signed written notice on file. All child care facilities shall provide the parent or
67 guardian enrolling a child in the facility with a written explanation of the disciplinary
68 philosophy and policies of the child care facility.

69 4. Up to two children who are five years of age or older and who are related within
70 the third degree of consanguinity or affinity to, adopted by, or under court appointed
71 guardianship or legal custody of a child care provider who is responsible for the daily

72 operation of a licensed family child care home that is organized as a corporation, association,
73 firm, partnership, limited liability company, sole proprietorship, or any other type of business
74 entity in this state shall not be included in the number of children counted toward the
75 maximum number of children for which the family child care home is licensed under section
76 210.221. If more than one member of the corporation, association, firm, partnership, limited
77 liability company, or other business entity is responsible for the daily operation of the
78 licensed family child care home, then the related children of only one such member shall be
79 excluded. A family child care home caring for children not counted in the maximum number
80 of children, as permitted under this subsection, shall disclose this to parents or guardians on
81 the written notice required under subsection 3 of this section. If a family child care home
82 begins caring for children not counted in the maximum number of children after a parent or
83 guardian has signed the written notice required under subsection 3 of this section, the family
84 child care home shall provide a separate notice to the parent or guardian that the family child
85 care home is caring for children not counted in the maximum number of children for which
86 the family child care home is licensed and shall keep a copy of the signed notice on file.

87 5. Nothing in this section shall prevent the department from enforcing licensing
88 regulations promulgated under this chapter, including, but not limited to, supervision
89 requirements and capacity limitations based on the amount of child care space available.

452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

2 (1) "Custody" means joint legal custody, sole legal custody, joint physical custody or
3 sole physical custody or any combination thereof;

4 (2) "Joint legal custody" means that the parents share the decision-making rights,
5 responsibilities, and authority relating to the health, education and welfare of the child, and,
6 unless allocated, apportioned, or decreed, the parents shall confer with one another in the
7 exercise of decision-making rights, responsibilities, and authority;

8 (3) "Joint physical custody" means an order awarding each of the parents significant,
9 but not necessarily equal, periods of time during which a child resides with or is under the
10 care and supervision of each of the parents. Joint physical custody shall be shared by the
11 parents in such a way as to assure the child of frequent, continuing and meaningful contact
12 with both parents;

13 (4) "Third-party custody" means a third party designated as a legal and physical
14 custodian pursuant to subdivision (5) of subsection 5 of this section.

15 2. The court shall determine custody in accordance with the best interests of the child.
16 There shall be a rebuttable presumption that an award of equal or approximately equal
17 parenting time to each parent is in the best interests of the child. Such presumption is
18 rebuttable only by a preponderance of the evidence in accordance with all relevant factors,
19 including, but not limited to, the factors contained in subdivisions (1) to (8) of this subsection.

20 The presumption may be rebutted if the court finds that the parents have reached an
21 agreement on all issues related to custody, or if the court finds that a pattern of domestic
22 violence has occurred as set out in subdivision (6) of this subsection. When the parties have
23 not reached an agreement on all issues related to custody, the court shall consider all relevant
24 factors and enter written findings of fact and conclusions of law, including, but not limited to,
25 the following:

26 (1) The wishes of the child's parents as to custody and the proposed parenting plan
27 submitted by both parties;

28 (2) The needs of the child for a frequent, continuing and meaningful relationship with
29 both parents and the ability and willingness of parents to actively perform their functions as
30 mother and father for the needs of the child;

31 (3) The interaction and interrelationship of the child with parents, siblings, and any
32 other person who may significantly affect the child's best interests;

33 (4) Which parent is more likely to allow the child frequent, continuing and
34 meaningful contact with the other parent;

35 (5) The child's adjustment to the child's home, school, and community. The fact that a
36 parent sends his or her child or children to a home school~~[, as defined in section 167.031,]~~ **or**
37 **family-paced education school** shall not be the sole factor that a court considers in
38 determining custody of such child or children;

39 (6) The mental and physical health of all individuals involved, including any history
40 of abuse of any individuals involved. If the court finds that a pattern of domestic violence as
41 defined in section 455.010 has occurred, and, if the court also finds that awarding custody to
42 the abusive parent is in the best interest of the child, then the court shall enter written findings
43 of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that
44 best protects the child and any other child or children for whom the parent has custodial or
45 visitation rights, and the parent or other family or household member who is the victim of
46 domestic violence from any further harm;

47 (7) The intention of either parent to relocate the principal residence of the child; and

48 (8) The unobstructed input of a child, free of coercion and manipulation, as to the
49 child's custodial arrangement.

50 3. (1) In any court proceedings relating to custody of a child, the court shall not
51 award custody or unsupervised visitation of a child to a parent if such parent or any person
52 residing with such parent has been found guilty of, or pled guilty to, any of the following
53 offenses when a child was the victim:

54 (a) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061,
55 566.062, 566.064, 566.067, 566.068, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203,
56 566.206, 566.209, 566.211, or 566.215;

57 (b) A violation of section 568.020;

58 (c) A violation of subdivision (2) of subsection 1 of section 568.060;

59 (d) A violation of section 568.065;

60 (e) A violation of section 573.200;

61 (f) A violation of section 573.205; or

62 (g) A violation of section 568.175.

63 (2) For all other violations of offenses in chapters 566 and 568 not specifically listed
64 in subdivision (1) of this subsection or for a violation of an offense committed in another state
65 when a child is the victim that would be a violation of chapter 566 or 568 if committed in
66 Missouri, the court may exercise its discretion in awarding custody or visitation of a child to a
67 parent if such parent or any person residing with such parent has been found guilty of, or pled
68 guilty to, any such offense.

69 4. The general assembly finds and declares that it is the public policy of this state that
70 frequent, continuing and meaningful contact with both parents after the parents have
71 separated or dissolved their marriage is in the best interest of the child, except for cases where
72 the court specifically finds that such contact is not in the best interest of the child, and that it
73 is the public policy of this state to encourage parents to participate in decisions affecting the
74 health, education and welfare of their children, and to resolve disputes involving their
75 children amicably through alternative dispute resolution. In order to effectuate these policies,
76 the general assembly encourages the court to enter a temporary parenting plan as early as
77 practicable in a proceeding under this chapter, consistent with the provisions of subsection 2
78 of this section, and, in so doing, the court shall determine the custody arrangement which will
79 best assure both parents participate in such decisions and have frequent, continuing and
80 meaningful contact with their children so long as it is in the best interests of the child.

81 5. Prior to awarding the appropriate custody arrangement in the best interest of the
82 child, the court shall consider each of the following as follows:

83 (1) Joint physical and joint legal custody to both parents, which shall not be denied
84 solely for the reason that one parent opposes a joint physical and joint legal custody award.
85 The residence of one of the parents shall be designated as the address of the child for mailing
86 and educational purposes;

87 (2) Joint physical custody with one party granted sole legal custody. The residence of
88 one of the parents shall be designated as the address of the child for mailing and educational
89 purposes;

90 (3) Joint legal custody with one party granted sole physical custody;

91 (4) Sole custody to either parent; or

92 (5) Third-party custody or visitation:

93 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a
94 custodian, or the welfare of the child requires, and it is in the best interests of the child, then
95 custody, temporary custody or visitation may be awarded to a person related by consanguinity
96 or affinity to the child. If no person related to the child by consanguinity or affinity is willing
97 to accept custody, then the court may award custody to any other person or persons deemed
98 by the court to be suitable and able to provide an adequate and stable environment for the
99 child. Before the court awards custody, temporary custody or visitation to a third person
100 under this subdivision, the court shall make that person a party to the action;

101 (b) Under the provisions of this subsection, any person may petition the court to
102 intervene as a party in interest at any time as provided by supreme court rule.

103 6. If the parties have not agreed to a custodial arrangement, or the court determines
104 such arrangement is not in the best interest of the child, the court shall include a written
105 finding in the judgment or order based on the public policy in subsection 4 of this section and
106 each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the
107 specific relevant factors that made a particular arrangement in the best interest of the child. If
108 a proposed custodial arrangement is rejected by the court, the court shall include a written
109 finding in the judgment or order detailing the specific relevant factors resulting in the
110 rejection of such arrangement.

111 7. Upon a finding by the court that either parent has refused to exchange information
112 with the other parent, which shall include but not be limited to information concerning the
113 health, education and welfare of the child, the court shall order the parent to comply
114 immediately and to pay the prevailing party a sum equal to the prevailing party's cost
115 associated with obtaining the requested information, which shall include but not be limited to
116 reasonable attorney's fees and court costs.

117 8. As between the parents of a child, no preference may be given to either parent in
118 the awarding of custody because of that parent's age, sex, or financial status, nor because of
119 the age or sex of the child. The court shall not presume that a parent, solely because of his or
120 her sex, is more qualified than the other parent to act as a joint or sole legal or physical
121 custodian for the child.

122 9. Any judgment providing for custody shall include a specific written parenting plan
123 setting forth the terms of such parenting plan arrangements specified in subsection 8 of
124 section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to
125 section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the
126 custody plan approved and ordered by the court shall be in the court's discretion and shall be
127 in the best interest of the child.

128 10. After August 28, 2016, every court order establishing or modifying custody or
129 visitation shall include the following language: "In the event of noncompliance with this

130 order, the aggrieved party may file a verified motion for contempt. If custody, visitation, or
131 third-party custody is denied or interfered with by a parent or third party without good cause,
132 the aggrieved person may file a family access motion with the court stating the specific facts
133 that constitute a violation of the custody provisions of the judgment of dissolution, legal
134 separation, or judgment of paternity. The circuit clerk will provide the aggrieved party with
135 an explanation of the procedures for filing a family access motion and a simple form for use
136 in filing the family access motion. A family access motion does not require the assistance of
137 legal counsel to prepare and file."

138 11. No court shall adopt any local rule, form, or practice requiring a standardized or
139 default parenting plan for interim, temporary, or permanent orders or judgments.
140 Notwithstanding any other provision of law to the contrary, a court may enter an interim
141 order in a proceeding under this chapter, provided that the interim order shall not contain any
142 provisions about child custody or a parenting schedule or plan without first providing the
143 parties with notice and a hearing, unless the parties otherwise agree.

144 12. Unless a parent has been denied custody rights pursuant to this section or
145 visitation rights under section 452.400, both parents shall have access to records and
146 information pertaining to a minor child including, but not limited to, medical, dental, and
147 school records. If the parent without custody has been granted restricted or supervised
148 visitation because the court has found that the parent with custody or any child has been the
149 victim of domestic violence, as defined in section 455.010, by the parent without custody, the
150 court may order that the reports and records made available pursuant to this subsection not
151 include the address of the parent with custody or the child. A court shall order that the reports
152 and records made available under this subsection not include the address of the parent with
153 custody if the parent with custody is a participant in the address confidentiality program under
154 section 589.663. Unless a parent has been denied custody rights pursuant to this section or
155 visitation rights under section 452.400, any judgment of dissolution or other applicable court
156 order shall specifically allow both parents access to such records and reports.

157 13. Except as otherwise precluded by state or federal law, if any individual,
158 professional, public or private institution or organization denies access or fails to provide or
159 disclose any and all records and information, including, but not limited to, past and present
160 dental, medical and school records pertaining to a minor child, to either parent upon the
161 written request of such parent, the court shall, upon its finding that the individual,
162 professional, public or private institution or organization denied such request without good
163 cause, order that party to comply immediately with such request and to pay to the prevailing
164 party all costs incurred, including, but not limited to, attorney's fees and court costs associated
165 with obtaining the requested information.

166 14. An award of joint custody does not preclude an award of child support pursuant to
167 section 452.340 and applicable supreme court rules. The court shall consider the factors
168 contained in section 452.340 and applicable supreme court rules in determining an amount
169 reasonable or necessary for the support of the child.

170 15. If the court finds that domestic violence or abuse as defined in section 455.010
171 has occurred, the court shall make specific findings of fact to show that the custody or
172 visitation arrangement ordered by the court best protects the child and the parent or other
173 family or household member who is the victim of domestic violence, as defined in section
174 455.010, and any other children for whom such parent has custodial or visitation rights from
175 any further harm.

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