

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 836
100TH GENERAL ASSEMBLY

1529H.02C

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Section A. Section 168.133, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.133, to read as follows: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. **(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, 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 of the criminal background check. For bus drivers, the school district shall be responsible for conducting the criminal background check on drivers employed by the school district. For drivers employed by a pupil transportation company under contract with the school district, the criminal background check shall be conducted pursuant to section 43.540 and conform to the requirements established in the National Child Protection Act of 1993, as amended by the Volunteers for Children Act.

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

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.

19 **daily attendance, as defined in section 163.011. The background check shall be conducted**
20 **before the person enrolls in any such course.**

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

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

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

34 3. The applicant **or person requesting enrollment in a course as described in this**
35 **section** shall pay the fee for the state criminal history record information pursuant to section
36 43.530 and sections 210.900 to 210.936 and pay the appropriate fee determined by the Federal
37 Bureau of Investigation for the federal criminal history record when he or she applies for a
38 position authorized to have contact with pupils pursuant to this section **or requests enrollment**
39 **in a course as described in this section**. The department shall distribute the fees collected for
40 the state and federal criminal histories to the Missouri highway patrol.

41 4. The department of elementary and secondary education shall facilitate an annual check
42 of employed persons holding current active certificates under section 168.021 against criminal
43 history records in the central repository under section 43.530, the sexual offender registry under
44 sections 589.400 to [~~589.475~~] **589.425**, and child abuse central registry under sections 210.109
45 to 210.183. The department of elementary and secondary education shall facilitate procedures
46 for school districts to submit personnel information annually for persons employed by the school
47 districts who do not hold a current valid certificate who are required by subsection 1 of this
48 section to undergo a criminal background check, sexual offender registry check, and child abuse
49 central registry check. [~~The Missouri state highway patrol shall provide ongoing electronic~~
50 ~~updates to criminal history background checks of those persons previously submitted, both those~~
51 ~~who have an active certificate and those who do not have an active certificate, by the department~~
52 ~~of elementary and secondary education. This shall fulfill the annual check against the criminal~~
53 ~~history records in the central repository under section 43.530.] **State and federal fingerprint-**~~

54 **based criminal record checks submitted under section 43.540 shall satisfy the annual**
55 **criminal background check and sexual offender registry check required by this section.**

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

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

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

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

73 9. A criminal background check and fingerprint collection conducted under subsections
74 1 and 2 of this section shall be valid for at least a period of one year and transferrable from one
75 school district to another district. A school district may, in its discretion, conduct a new criminal
76 background check and fingerprint collection under subsections 1 and 2 for a newly hired
77 employee at the district's expense. A teacher's change in type of certification shall have no effect
78 on the transferability or validity of such records.

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

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

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

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