

HOUSE COMMITTEE BILL NO. 1

AN ACT

To repeal sections 167.031, 167.042, 210.167, and 211.031, RSMo, and to enact in lieu thereof four new sections relating to home school protections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 167.031, 167.042, 210.167, and 211.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 167.012, 167.031, 210.167, and 211.031, to read as follows:

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

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

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

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

(4) Does not enroll children who participate in the program established in section 163.431 or the program established in sections 135.712 to 135.719 and sections 166.700 to 166.720.

2. (1) Except as otherwise provided in this subsection, as evidence that a child is receiving regular instruction, the

17 child's parent, guardian, or other person having control or
18 custody of the child shall:

19 (a) Maintain the following records:

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

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

23 (iii) A record of evaluations of the child's academic
24 progress; or

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

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

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

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

44 210.

45 4. Home school education enforcement and records maintained
46 under this section, section 210.167, and section 211.031 shall be
47 subject to review only by the local prosecuting attorney and such
48 review shall be based only upon probable cause.

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

(2) Any parent, guardian, or other person who enrolls a child
12 between the ages of five and seven years in a [public] school
13 district or charter school program of academic instruction shall
14 cause such child to attend the academic program on a regular basis,
15 according to this section. Nonattendance by such child shall cause
16 such parent, guardian, or other responsible person to be in
17 violation of the provisions of section 167.061, except as provided
18 by this section. A parent, guardian, or other person in this state
19 having charge, control, or custody of a child between the ages of
20 seven years of age and the compulsory attendance age for the
21 district shall cause the child to attend regularly some [public]
22 school district, charter school, private, parochial, parish, home

23 school, or a combination of such schools not less than the entire
24 school term of the school ~~[which]~~ that the child attends; except
25 that:

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

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

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

45 2. ~~[(1) As used in sections 167.031 to 167.071, a "home~~
46 ~~school" is a school, whether incorporated or unincorporated, that:~~

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

49 ~~(b) Enrolls pupils between the ages of seven years and the~~

50 ~~compulsory attendance age for the district, of which no more than~~
51 ~~four are unrelated by affinity or consanguinity in the third~~
52 ~~degree; and~~

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

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

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

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

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

63 ~~e. A record of evaluations of the child's academic progress;~~

64 ~~or~~

65 ~~d. Other written, or credible evidence equivalent to~~
66 ~~subparagraphs a., b. and e.; and~~

67 ~~(b) Offer at least one thousand hours of instruction, at~~
68 ~~least six hundred hours of which will be in reading, language arts,~~
69 ~~mathematics, social studies and science or academic courses that~~
70 ~~are related to the aforementioned subject areas and consonant with~~
71 ~~the pupil's age and ability. At least four hundred of the six~~
72 ~~hundred hours shall occur at the regular home school location.~~

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

75 ~~3.] Nothing in this section shall require a private,~~
76 ~~parochial, parish, or home school to include in its curriculum any~~

77 concept, topic, or practice in conflict with the school's
78 religious doctrines or to exclude from its curriculum any concept,
79 topic, or practice consistent with the school's religious
80 doctrines. Any other provision of the law to the contrary
81 notwithstanding, all departments or agencies of the state of
82 Missouri shall be prohibited from dictating through rule,
83 regulation, or other device any statewide curriculum for private,
84 parochial, parish, or home schools.

85 ~~[4.]~~ 3. A school year begins on the first day of July and ends
86 on the thirtieth day of June following.

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

95 ~~6.]~~ 4. (1) As used in ~~[sections 167.031 to 167.051]~~ this
96 section, the term "compulsory attendance age for the district"
97 shall mean:

98 ~~[(1)]~~ (a) Seventeen years of age for any metropolitan school
99 district for which the school board adopts a resolution to
100 establish such compulsory attendance age; provided that such
101 resolution shall take effect no earlier than the school year next
102 following the school year during which the resolution is adopted;
103 and

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

107 (2) The school board of a metropolitan school district for
108 which the compulsory attendance age is seventeen years may adopt a
109 resolution to lower the compulsory attendance age to sixteen
110 years; provided that such resolution shall take effect no earlier
111 than the school year next following the school year during which
112 the resolution is adopted.

113 ~~[(7-)]~~ 5. For purposes of ~~[subsection 2 of this section]~~ home
114 school credits toward high school graduation, as applied in
115 subsection ~~[6 herein]~~ 4 of this section, a "completed credit
116 towards high school graduation" shall be defined as one hundred
117 hours or more of instruction in a course. ~~[Home school education~~
118 ~~enforcement and records pursuant to this section, and sections~~
119 ~~210.167 and 211.031, shall be subject to review only by the local~~
120 ~~prosecuting attorney.]~~

 210.167. If an investigation conducted by the children's
2 division under section 210.145 reveals that the only basis for
3 action involves a question of an alleged violation of section
4 167.031, then the local office of the division shall send the
5 report to the school district in which the child resides. The
6 school district shall immediately refer all private, parochial,
7 parish, or home school matters to the prosecuting attorney of the
8 county wherein the child legally resides. The school district may
9 refer public school violations of section 167.031 to the
10 prosecuting attorney. Any investigation for a violation of

11 section 167.031 involving a child who is being home schooled shall
12 be subject to review only by the local prosecuting attorney and
13 shall be based only upon probable cause.

211.031. 1. Except as otherwise provided in this chapter,
2 the juvenile court or the family court in circuits that have a
3 family court as provided in chapter 487 shall have exclusive
4 original jurisdiction in proceedings:

5 (1) Involving any child who may be a resident of or found
6 within the county and who is alleged to be in need of care and
7 treatment because:

8 (a) The parents, or other persons legally responsible for the
9 care and support of the child, neglect or refuse to provide proper
10 support, education which is required by law, medical, surgical or
11 other care necessary for his or her well-being; except that
12 reliance by a parent, guardian or custodian upon remedial
13 treatment other than medical or surgical treatment for a child
14 shall not be construed as neglect when the treatment is recognized
15 or permitted pursuant to the laws of this state;

16 (b) The child is otherwise without proper care, custody or
17 support;

18 (c) The child was living in a room, building or other
19 structure at the time such dwelling was found by a court of
20 competent jurisdiction to be a public nuisance pursuant to section
21 195.130; or

22 (d) The child is in need of mental health services and the
23 parent, guardian or custodian is unable to afford or access
24 appropriate mental health treatment or care for the child;

25 (2) Involving any child who may be a resident of or found
26 within the county and who is alleged to be in need of care and
27 treatment because:

28 (a) The child while subject to compulsory school attendance
29 is repeatedly and without justification absent from school;

30 (b) The child disobeys the reasonable and lawful directions
31 of his or her parents or other custodian and is beyond their
32 control;

33 (c) The child is habitually absent from his or her home
34 without sufficient cause, permission, or justification;

35 (d) The behavior or associations of the child are otherwise
36 injurious to his or her welfare or to the welfare of others; or

37 (e) The child is charged with an offense not classified as
38 criminal, or with an offense applicable only to children; except
39 that, the juvenile court shall not have jurisdiction over any child
40 fifteen years of age who is alleged to have violated a state or
41 municipal traffic ordinance or regulation, the violation of which
42 does not constitute a felony, or any child who is alleged to have
43 violated a state or municipal ordinance or regulation prohibiting
44 possession or use of any tobacco product;

45 (3) Involving any child who is alleged to have violated a
46 state law or municipal ordinance, or any person who is alleged to
47 have violated a state law or municipal ordinance prior to attaining
48 the age of eighteen years, in which cases jurisdiction may be taken
49 by the court of the circuit in which the child or person resides or
50 may be found or in which the violation is alleged to have occurred;
51 except that, the juvenile court shall not have jurisdiction over

52 any child fifteen years of age who is alleged to have violated a
53 state or municipal traffic ordinance or regulation, the violation
54 of which does not constitute a felony, and except that the juvenile
55 court shall have concurrent jurisdiction with the municipal court
56 over any child who is alleged to have violated a municipal curfew
57 ordinance, and except that the juvenile court shall have
58 concurrent jurisdiction with the circuit court on any child who is
59 alleged to have violated a state or municipal ordinance or
60 regulation prohibiting possession or use of any tobacco product;

61 (4) For the adoption of a person;

62 (5) For the commitment of a child to the guardianship of the
63 department of social services as provided by law;

64 (6) Involving an order of protection pursuant to chapter 455
65 when the respondent is less than eighteen years of age; and

66 (7) Involving a child who has been a victim of sex
67 trafficking or sexual exploitation.

68 2. Transfer of a matter, proceeding, jurisdiction or
69 supervision for a child who resides in a county of this state shall
70 be made as follows:

71 (1) Prior to the filing of a petition and upon request of any
72 party or at the discretion of the juvenile officer, the matter in
73 the interest of a child may be transferred by the juvenile officer,
74 with the prior consent of the juvenile officer of the receiving
75 court, to the county of the child's residence or the residence of
76 the person eighteen years of age for future action;

77 (2) Upon the motion of any party or on its own motion prior to
78 final disposition on the pending matter, the court in which a

79 proceeding is commenced may transfer the proceeding of a child to
80 the court located in the county of the child's residence, or the
81 county in which the offense pursuant to subdivision (3) of
82 subsection 1 of this section is alleged to have occurred for
83 further action;

84 (3) Upon motion of any party or on its own motion, the court
85 in which jurisdiction has been taken pursuant to subsection 1 of
86 this section may at any time thereafter transfer jurisdiction of a
87 child to the court located in the county of the child's residence
88 for further action with the prior consent of the receiving court;

89 (4) Upon motion of any party or upon its own motion at any
90 time following a judgment of disposition or treatment pursuant to
91 section 211.181, the court having jurisdiction of the cause may
92 place the child under the supervision of another juvenile court
93 within or without the state pursuant to section 210.570 with the
94 consent of the receiving court;

95 (5) Upon motion of any child or his or her parent, the court
96 having jurisdiction shall grant one change of judge pursuant to
97 Missouri supreme court rules;

98 (6) Upon the transfer of any matter, proceeding,
99 jurisdiction or supervision of a child, certified copies of all
100 legal and social documents and records pertaining to the case on
101 file with the clerk of the transferring juvenile court shall
102 accompany the transfer.

103 3. In any proceeding involving any child taken into custody
104 in a county other than the county of the child's residence, the
105 juvenile court of the county of the child's residence shall be

106 notified of such taking into custody within seventy-two hours.

107 4. When an investigation by a juvenile officer pursuant to
108 this section reveals that the only basis for action involves an
109 alleged violation of section 167.031 involving a child who alleges
110 to be home schooled, the juvenile officer shall contact a parent or
111 parents of such child to verify that the child is being home
112 schooled and not in violation of section 167.031 before making a
113 report of such a violation. Any report of a violation of section
114 167.031 made by a juvenile officer regarding a child who is being
115 home schooled shall be made only to the prosecuting attorney of the
116 county where the child legally resides and shall be based only upon
117 probable cause.

118 5. The disability or disease of a parent shall not constitute
119 a basis for a determination that a child is a child in need of care
120 or for the removal of custody of a child from the parent without a
121 specific showing that there is a causal relation between the
122 disability or disease and harm to the child.

~~2 [167.042. For the purpose of minimizing
3 unnecessary investigations due to reports of truancy,
4 each parent, guardian, or other person responsible for
5 the child who causes his child to attend regularly a home
6 school may provide to the recorder of deeds of the county
7 where the child legally resides, or to the chief school
8 officer of the public school district where the child
9 legally resides, a signed, written declaration of
10 enrollment stating their intent for the child to attend
11 a home school within thirty days after the establishment
12 of the home school and by September first annually
13 thereafter. The name and age of each child attending the
14 home school, the address and telephone number of the
15 home school, the name of each person teaching in the home
16 school, and the name, address and signature of each
17 person making the declaration of enrollment shall be
included in said notice. A declaration of enrollment to~~

18 ~~provide a home school shall not be cause to investigate~~
19 ~~violations of section 167.031. The recorder of deeds~~
20 ~~may charge a service cost of not more than one dollar for~~
21 ~~each notice filed.]~~