

FIRST REGULAR SESSION

SENATE BILL NO. 295

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Read 1st time January 24, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1562S.011

AN ACT

To repeal section 168.133, RSMo, and to enact in lieu thereof one new section relating to criminal background checks for volunteers at elementary and secondary education facilities.

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Section A. Section 168.133, RSMo, is repealed and one new section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

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

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

19 **volunteers**, and nurses. The school district shall also ensure that a criminal
20 background check is conducted for school bus drivers. The district may allow
21 such drivers to operate buses pending the result of the criminal background
22 check. For bus drivers, the school district shall be responsible for conducting the
23 criminal background check on drivers employed by the school district. For drivers
24 employed by a pupil transportation company under contract with the school
25 district, the criminal background check shall be conducted pursuant to section
26 43.540 and conform to the requirements established in the National Child
27 Protection Act of 1993, as amended by the Volunteers for Children Act. Personnel
28 who have successfully undergone a criminal background check and a check of the
29 family care safety registry as part of the professional license application process
30 under section 168.021 and who have received clearance on the checks within one
31 prior year of employment shall be considered to have completed the background
32 check requirement. A criminal background check under this section shall include
33 a search of any information publicly available in an electronic format through a
34 public index or single case display.

35 [2.] **3.** In order to facilitate the criminal history background check, the
36 applicant shall submit a set of fingerprints collected pursuant to standards
37 determined by the Missouri highway patrol. The fingerprints shall be used by the
38 highway patrol to search the criminal history repository and shall be forwarded
39 to the Federal Bureau of Investigation for searching the federal criminal history
40 files.

41 [3.] **4.** The applicant shall pay the fee for the state criminal history
42 record information pursuant to section 43.530 and sections 210.900 to 210.936
43 and pay the appropriate fee determined by the Federal Bureau of Investigation
44 for the federal criminal history record when he or she applies for a position
45 authorized to have contact with pupils pursuant to this section. The department
46 shall distribute the fees collected for the state and federal criminal histories to
47 the Missouri highway patrol.

48 [4.] **5.** The department of elementary and secondary education shall
49 facilitate an annual check of employed persons holding current active certificates
50 under section 168.021 against criminal history records in the central repository
51 under section 43.530, the sexual offender registry under sections 589.400 to
52 [589.475] **589.426**, and child abuse central registry under sections 210.109 to
53 210.183. The department of elementary and secondary education shall facilitate
54 procedures for school districts to submit personnel information annually for

55 persons employed by the school districts who do not hold a current valid
56 certificate who are required by subsection 1 of this section to undergo a criminal
57 background check, sexual offender registry check, and child abuse central registry
58 check. The Missouri state highway patrol shall provide ongoing electronic
59 updates to criminal history background checks of those persons previously
60 submitted, both those who have an active certificate and those who do not have
61 an active certificate, by the department of elementary and secondary
62 education. This shall fulfill the annual check against the criminal history records
63 in the central repository under section 43.530.

64 [5.] 6. The school district may adopt a policy to provide for
65 reimbursement of expenses incurred by an employee for state and federal
66 criminal history information pursuant to section 43.530.

67 [6.] 7. If, as a result of the criminal history background check mandated
68 by this section, it is determined that the holder of a certificate issued pursuant
69 to section 168.021 has pled guilty or nolo contendere to, or been found guilty of
70 a crime or offense listed in section 168.071, or a similar crime or offense
71 committed in another state, the United States, or any other country, regardless
72 of imposition of sentence, such information shall be reported to the department
73 of elementary and secondary education.

74 [7.] 8. Any school official making a report to the department of
75 elementary and secondary education in conformity with this section shall not be
76 subject to civil liability for such action.

77 [8.] 9. For any teacher who is employed by a school district on a
78 substitute or part-time basis within one year of such teacher's retirement from
79 a Missouri school, the state of Missouri shall not require such teacher to be
80 subject to any additional background checks prior to having contact with
81 pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
82 restricting a school district from requiring additional background checks for such
83 teachers employed by the school district.

84 [9.] 10. A criminal background check and fingerprint collection conducted
85 under subsections 1 [and 2] to 3 of this section shall be valid for at least a period
86 of one year and transferrable from one school district to another district. A school
87 district may, in its discretion, conduct a new criminal background check and
88 fingerprint collection under subsections 1 [and 2] to 3 for a newly hired employee
89 at the district's expense. A teacher's change in type of certification shall have no
90 effect on the transferability or validity of such records.

91 [10.] 11. Nothing in this section shall be construed to alter the standards
92 for suspension, denial, or revocation of a certificate issued pursuant to this
93 chapter.

94 [11.] 12. The state board of education may promulgate rules for criminal
95 history background checks made pursuant to this section. Any rule or portion of
96 a rule, as that term is defined in section 536.010, that is created under the
97 authority delegated in this section shall become effective only if it complies with
98 and is subject to all of the provisions of chapter 536 and, if applicable, section
99 536.028. This section and chapter 536 are nonseverable and if any of the powers
100 vested with the general assembly pursuant to chapter 536 to review, to delay the
101 effective date, or to disapprove and annul a rule are subsequently held
102 unconstitutional, then the grant of rulemaking authority and any rule proposed
103 or adopted after January 1, 2005, shall be invalid and void.

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Bill

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