

FIRST REGULAR SESSION

# SENATE BILL NO. 369

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR ROWDEN.

Read 1st time January 31, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1724S.011

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## AN ACT

To repeal sections 168.133 and 304.060, RSMo, and to enact in lieu thereof two new sections relating to transportation of school children.

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

Section A. Sections 168.133 and 304.060, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 168.133 and 304.060, to  
3 read as follows:

168.133. 1. The school district shall ensure that a criminal background  
2 check is conducted on any person employed after January 1, 2005, authorized to  
3 have contact with pupils and prior to the individual having contact with any  
4 pupil. Such persons include, but are not limited to, administrators, teachers,  
5 aides, paraprofessionals, assistants, secretaries, custodians, cooks, and  
6 nurses. The school district shall also ensure that a criminal background check  
7 is conducted for school bus drivers. The district may allow such drivers to  
8 operate buses pending the result of the criminal background check. For bus  
9 drivers, the school district shall be responsible for conducting the criminal  
10 background check on drivers employed by the school district. For drivers  
11 employed by a pupil transportation company, **a municipality, or any other**  
12 **entity** under contract with the school district, the criminal background check  
13 shall be conducted pursuant to section 43.540 and conform to the requirements  
14 established in the National Child Protection Act of 1993, as amended by the  
15 Volunteers for Children Act. Personnel who have successfully undergone a  
16 criminal background check and a check of the family care safety registry as part  
17 of the professional license application process under section 168.021 and who  
18 have received clearance on the checks within one prior year of employment shall  
19 be considered to have completed the background check requirement. A criminal

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

20 background check under this section shall include a search of any information  
21 publicly available in an electronic format through a public index or single case  
22 display.

23         2. In order to facilitate the criminal history background check, the  
24 applicant shall submit a set of fingerprints collected pursuant to standards  
25 determined by the Missouri highway patrol. The fingerprints shall be used by the  
26 highway patrol to search the criminal history repository and shall be forwarded  
27 to the Federal Bureau of Investigation for searching the federal criminal history  
28 files.

29         3. The applicant shall pay the fee for the state criminal history record  
30 information pursuant to section 43.530 and sections 210.900 to 210.936 and pay  
31 the appropriate fee determined by the Federal Bureau of Investigation for the  
32 federal criminal history record when he or she applies for a position authorized  
33 to have contact with pupils pursuant to this section. The department shall  
34 distribute the fees collected for the state and federal criminal histories to the  
35 Missouri highway patrol.

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

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

55         6. If, as a result of the criminal history background check mandated by

56 this section, it is determined that the holder of a certificate issued pursuant to  
57 section 168.021 has pled guilty or nolo contendere to, or been found guilty of a  
58 crime or offense listed in section 168.071, or a similar crime or offense committed  
59 in another state, the United States, or any other country, regardless of imposition  
60 of sentence, such information shall be reported to the department of elementary  
61 and secondary education.

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

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

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

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

81 11. The state board of education may promulgate rules for criminal  
82 history background checks made pursuant to this section. Any rule or portion of  
83 a rule, as that term is defined in section 536.010, that is created under the  
84 authority delegated in this section shall become effective only if it complies with  
85 and is subject to all of the provisions of chapter 536 and, if applicable, section  
86 536.028. This section and chapter 536 are nonseverable and if any of the powers  
87 vested with the general assembly pursuant to chapter 536 to review, to delay the  
88 effective date, or to disapprove and annul a rule are subsequently held  
89 unconstitutional, then the grant of rulemaking authority and any rule proposed  
90 or adopted after January 1, 2005, shall be invalid and void.

304.060. 1. The state board of education shall adopt and enforce

2 regulations not inconsistent with law to cover the design and operation of all  
3 school buses used for the transportation of school children when owned and  
4 operated by any school district or privately owned and operated under contract  
5 with any school district in this state, and such regulations shall by reference be  
6 made a part of any such contract with a school district. The state board of  
7 education may adopt rules and regulations governing the use of other vehicles  
8 owned by a district or operated under contract with any school district in this  
9 state and used for the purpose of transporting school children. The operator of  
10 such vehicle shall be licensed in accordance with section 302.272, and such  
11 vehicle shall transport no more children than the manufacturer suggests as  
12 appropriate for such vehicle. The state board of education may also adopt rules  
13 and regulations governing the use of authorized common carriers for the  
14 transportation of students on field trips or other special trips for educational  
15 purposes. Every school district, its officers and employees, and every person  
16 employed under contract by a school district shall be subject to such  
17 regulations. The state board of education shall cooperate with the state  
18 transportation department and the state highway patrol in placing suitable  
19 warning signs at intervals on the highways of the state.

20 **2. Notwithstanding the provisions of subsection 1 of this section,**  
21 **any school board in the state of Missouri may contract with any**  
22 **municipality for the purpose of transporting school**  
23 **children. Municipalities entering into any such contract shall comply**  
24 **with the requirements of this section and sections 162.064, 162.065,**  
25 **168.133, and 307.375.**

26 **3.** Any officer or employee of any school district who violates any of the  
27 regulations or fails to include obligation to comply with such regulations in any  
28 contract executed by him on behalf of a school district shall be guilty of  
29 misconduct and subject to removal from office or employment. Any person  
30 operating a school bus under contract with a school district who fails to comply  
31 with any such regulations shall be guilty of breach of contract and such contract  
32 shall be cancelled after notice and hearing by the responsible officers of such  
33 school district.

34 **[3.] 4.** Any other provision of the law to the contrary notwithstanding, in  
35 any county of the first class with a charter form of government adjoining a city  
36 not within a county, school buses may bear the word "special".

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