

SECOND REGULAR SESSION

# HOUSE BILL NO. 840

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES JOLLY (Sponsor), SCHOEMEHL, ENGLER,  
DARROUGH AND WALLACE (Co-sponsors).

Pre-filed December 11, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2948L.031

---

### AN ACT

To repeal section 160.261, RSMo, and to enact in lieu thereof one new section relating to school discipline, with a penalty provision.

---

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

Section A. Section 160.261, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.261, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to teachers and other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a

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

17 professional basis while acting within the scope of their assigned duties. As used in this section,  
18 the phrase "act of school violence" or "violent behavior" means the exertion of physical force by  
19 a student with the intent to do serious physical injury as defined in subdivision (6) of section  
20 565.002, RSMo, to another person while on school property, including a school bus in service  
21 on behalf of the district, or while involved in school activities. The policy shall at a minimum  
22 require school administrators to report, as soon as reasonably practical, to the appropriate law  
23 enforcement agency any of the following felonies, or any act which if committed by an adult  
24 would be one of the following felonies:

- 25 (1) First degree murder under section 565.020, RSMo;
- 26 (2) Second degree murder under section 565.021, RSMo;
- 27 (3) Kidnapping under section 565.110, RSMo;
- 28 (4) First degree assault under section 565.050, RSMo;
- 29 (5) Forcible rape under section 566.030, RSMo;
- 30 (6) Forcible sodomy under section 566.060, RSMo;
- 31 (7) Burglary in the first degree under section 569.160, RSMo;
- 32 (8) Burglary in the second degree under section 569.170, RSMo;
- 33 (9) Robbery in the first degree under section 569.020, RSMo;
- 34 (10) Distribution of drugs under section 195.211, RSMo;
- 35 (11) Distribution of drugs to a minor under section 195.212, RSMo;
- 36 (12) Arson in the first degree under section 569.040, RSMo;
- 37 (13) Voluntary manslaughter under section 565.023, RSMo;
- 38 (14) Involuntary manslaughter under section 565.024, RSMo;
- 39 (15) Second degree assault under section 565.060, RSMo;
- 40 (16) Sexual assault under section 566.040, RSMo;
- 41 (17) Felonious restraint under section 565.120, RSMo;
- 42 (18) Property damage in the first degree under section 569.100, RSMo;
- 43 (19) The possession of a weapon under chapter 571, RSMo;
- 44 (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- 45 (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- 46 (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
- 47 (23) Sexual abuse pursuant to section 566.100, RSMo;

48 committed on school property, including but not limited to actions on any school bus in service  
49 on behalf of the district or while involved in school activities. The policy shall require that any  
50 portion of a student's individualized education program that is related to demonstrated or  
51 potentially violent behavior shall be provided to any teacher and other school district employees  
52 who are directly responsible for the student's education or who otherwise interact with the

53 student on an educational basis while acting within the scope of their assigned duties. The policy  
54 shall also contain the consequences of failure to obey standards of conduct set by the local board  
55 of education, and the importance of the standards to the maintenance of an atmosphere where  
56 orderly learning is possible and encouraged.

57 **3. The policy shall provide that any student who is on suspension for any of the**  
58 **offenses listed in subsection 2 of this section or any act of violence or drug-related activity**  
59 **defined by school district policy as a serious violation of school discipline pursuant to**  
60 **subsection 9 of this section shall have as a condition of his or her suspension the**  
61 **requirement that such student is not allowed, while on such suspension, to be within one**  
62 **thousand feet of any public school in the school district where such student attended school**  
63 **unless:**

64 **(1) Such student is under the direct supervision of the student's parent, legal**  
65 **guardian, or custodian;**

66 **(2) Such student is under the direct supervision of another adult designated by the**  
67 **student's parent, legal guardian, or custodian, in advance, in writing, to the principal of**  
68 **the school which suspended the student; or**

69 **(3) Such student resides within one thousand feet of any public school in the school**  
70 **district where such student attended school in which case such student may be on the**  
71 **property of his or her residence without direct adult supervision.**

72 **4. Any student who violates the condition of suspension required pursuant to**  
73 **subsection 3 of this section may be subject to expulsion or further suspension pursuant to**  
74 **the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this**  
75 **determination consideration shall be given to whether the student poses a threat to the**  
76 **safety of any child or school employee and whether such student's unsupervised presence**  
77 **within one thousand feet of the school is disruptive to the educational process or**  
78 **undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who**  
79 **is a student with a disability is subject to state and federal procedural rights.**

80 [3.] **5. The policy shall provide for a suspension for a period of not less than one year,**  
81 **or expulsion, for a student who is determined to have brought a weapon to school, including but**  
82 **not limited to the school playground or the school parking lot, brought a weapon on a school bus**  
83 **or brought a weapon to a school activity whether on or off of the school property in violation of**  
84 **district policy, except that:**

85 **(1) The superintendent, or in a school district with no high school, the principal of the**  
86 **school which such child attends may modify such suspension on a case-by-case basis; and**

87 **(2) This section shall not prevent the school district from providing educational services**  
88 **in an alternative setting to a student suspended under the provisions of this section.**

89 [4.] 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined  
90 under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack,  
91 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,  
92 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade  
93 knife; except that this section shall not be construed to prohibit a school board from adopting a  
94 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for  
95 educational purposes so long as the firearm is unloaded. The local board of education shall  
96 define weapon in the discipline policy. Such definition shall include the weapons defined in this  
97 subsection but may also include other weapons.

98 [5.] 7. All school district personnel responsible for the care and supervision of students  
99 are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on  
100 any property of the school, on any school bus going to or returning from school, during  
101 school-sponsored activities, or during intermission or recess periods.

102 [6.] 8. Teachers and other authorized district personnel in public schools responsible for  
103 the care, supervision, and discipline of schoolchildren, including volunteers selected with  
104 reasonable care by the school district, shall not be civilly liable when acting in conformity with  
105 the established policy of discipline developed by each board under this section, or when reporting  
106 to his or her supervisor or other person as mandated by state law, acts of school violence or  
107 threatened acts of school violence, within the course and scope of the duties of the teacher,  
108 authorized district personnel or volunteer, when such individual is acting in conformity with the  
109 established policies developed by the board. Nothing in this section shall be construed to create  
110 a new cause of action against such school district, or to relieve the school district from liability  
111 for the negligent acts of such persons.

112 [7.] 9. Each school board shall define in its discipline policy acts of violence and any  
113 other acts that constitute a serious violation of that policy. Acts of violence as defined by school  
114 boards shall include but not be limited to exertion of physical force by a student with the intent  
115 to do serious bodily harm to another person while on school property, including a school bus in  
116 service on behalf of the district, or while involved in school activities. School districts shall for  
117 each student enrolled in the school district compile and maintain records of any serious violation  
118 of the district's discipline policy. Such records shall be made available to teachers and other  
119 school district employees with a need to know while acting within the scope of their assigned  
120 duties, and shall be provided as required in section 167.020, RSMo, to any school district in  
121 which the student subsequently attempts to enroll.

122 [8.] 10. Spanking, when administered by certificated personnel of a school district in a  
123 reasonable manner in accordance with the local board of education's written policy of discipline,  
124 is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to

125 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over  
126 or investigate any report of alleged child abuse arising out of or related to any spanking  
127 administered in a reasonable manner by any certificated school personnel pursuant to a written  
128 policy of discipline established by the board of education of the school district. Upon receipt of  
129 any reports of child abuse by the division of family services pursuant to sections 210.110 to  
130 210.165, RSMo, which allegedly involves personnel of a school district, the division of family  
131 services shall notify the superintendent of schools of the district or, if the person named in the  
132 alleged incident is the superintendent of schools, the president of the school board of the school  
133 district where the alleged incident occurred. If, after an initial investigation, the superintendent  
134 of schools or the president of the school board finds that the report involves an alleged incident  
135 of child abuse other than the administration of a spanking by certificated school personnel  
136 pursuant to a written policy of discipline or a report made for the sole purpose of harassing a  
137 public school employee, the superintendent of schools or the president of the school board shall  
138 immediately refer the matter back to the division of family services and take no further action.  
139 In all matters referred back to the division of family services, the division of family services shall  
140 treat the report in the same manner as other reports of alleged child abuse received by the  
141 division. If the report pertains to an alleged incident which arose out of or is related to a  
142 spanking administered by certificated personnel of a school district pursuant to a written policy  
143 of discipline or a report made for the sole purpose of harassing a public school employee, a  
144 notification of the reported child abuse shall be sent by the superintendent of schools or the  
145 president of the school board to the juvenile officer of the county in which the alleged incident  
146 occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement  
147 officer designated by the juvenile officer and the superintendent of schools or, if the subject of  
148 the report is the superintendent of schools, by the juvenile officer or a law enforcement officer  
149 designated by the juvenile officer and the president of the school board or such president's  
150 designee. The investigation shall begin no later than forty-eight hours after notification from the  
151 division of family services is received, and shall consist of, but need not be limited to,  
152 interviewing and recording statements of the child and the child's parents or guardian within two  
153 working days after the start of the investigation, of the school district personnel allegedly  
154 involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law  
155 enforcement officer designated by the juvenile officer and the investigating school district  
156 personnel shall issue separate reports of their findings and recommendations after the conclusion  
157 of the investigation to the school board of the school district within seven days after receiving  
158 notice from the division of family services. The reports shall contain a statement of conclusion  
159 as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school  
160 board shall consider the separate reports and shall issue its findings and conclusions and the

161 action to be taken, if any, within seven days after receiving the last of the two reports. The  
162 findings and conclusions shall be made in substantially the following form:

163 (1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law  
164 enforcement officer designated by the juvenile officer and the investigating school board  
165 personnel agree that the evidence shows that no abuse occurred;

166 (2) The report of the alleged child abuse is substantiated. The juvenile officer or a law  
167 enforcement officer designated by the juvenile officer and the investigating school district  
168 personnel agree that the evidence is sufficient to support a finding that the alleged incident of  
169 child abuse did occur;

170 (3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile  
171 officer or a law enforcement officer designated by the juvenile officer and the investigating  
172 school personnel are unable to agree on their findings and conclusions on the alleged incident.

173 [9.] **11.** The findings and conclusions of the school board shall be sent to the division of  
174 family services. If the findings and conclusions of the school board are that the report of the  
175 alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and  
176 no record shall be entered in the division of family services' central registry. If the findings and  
177 conclusions of the school board are that the report of the alleged child abuse is substantiated, the  
178 division of family services shall report the incident to the prosecuting attorney of the appropriate  
179 county along with the findings and conclusions of the school district and shall include the  
180 information in the division's central registry. If the findings and conclusions of the school board  
181 are that the issue involved in the alleged incident of child abuse is unresolved, the division of  
182 family services shall report the incident to the prosecuting attorney of the appropriate county  
183 along with the findings and conclusions of the school board, however, the incident and the names  
184 of the parties allegedly involved shall not be entered into the central registry of the division of  
185 family services unless and until the alleged child abuse is substantiated by a court of competent  
186 jurisdiction.

187 [10.] **12.** Any superintendent of schools, president of a school board or such person's  
188 designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this  
189 section or who knowingly withholds any information relative to any investigation or report  
190 pursuant to this section is guilty of a class A misdemeanor.