

SECOND REGULAR SESSION

# HOUSE BILL NO. 1449

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WRIGHT (159) (Sponsor), CUNNINGHAM (86), COOPER (158), MOORE, CHINN, BROWN (50), MYERS, LOEHNER, DETHROW, SCHNEIDER, SCHAD, WALLACE, WOOD, RECTOR, HARRIS (110), WASSON, FISHER, SALVA, WHORTON, JONES, POLLOCK, TILLEY, ROBB, MUNZLINGER, JETTON, BEAN, AULL, PEARCE, FAITH, SILVEY, JACKSON, LAMPE, WETER, VIEBROCK AND SCHAAF (Co-sponsors).

Read 1st time January 19, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4369L.011

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### AN ACT

To repeal section 168.133, RSMo, and to enact in lieu thereof one new section relating to background checks for teachers.

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*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Section A. Section 168.133, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.133, to read as follows: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. 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. 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 background check shall be conducted on drivers employed by the school district or employed by a pupil transportation company under contract with the school district.
2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by

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.

13 the highway patrol to search the criminal history repository and the family care safety registry  
14 pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the  
15 Federal Bureau of Investigation for searching the federal criminal history files.

16 3. The applicant shall pay the fee for the state criminal history record information  
17 pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the  
18 appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history  
19 record when he or she applies for a position authorized to have contact with pupils pursuant to  
20 this section. The department shall distribute the fees collected for the state and federal criminal  
21 histories to the Missouri highway patrol.

22 4. The school district may adopt a policy to provide for reimbursement of expenses  
23 incurred by an employee for state and federal criminal history information pursuant to section  
24 43.530, RSMo.

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

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

33 7. **For any teacher who is employed by a school district on a substitute or part-time**  
34 **basis within one year of such teacher's retirement, the state of Missouri shall not require**  
35 **such teacher to be subject to any additional background checks prior to having contact**  
36 **with pupils. If such a teacher is employed by a school district other than the school from**  
37 **which the teacher retired, the school district from which the teacher retired shall provide**  
38 **such teacher's background check information to the employing school district and no**  
39 **additional background checks for such teacher shall be required. Nothing in this**  
40 **subsection shall be construed as prohibiting or otherwise restricting a school district from**  
41 **requiring additional background checks for such teachers employed by the school district.**

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

44 [8.] 9. The state board of education may promulgate rules for criminal history  
45 background checks made pursuant to this section. Any rule or portion of a rule, as that term is  
46 defined in section 536.010, RSMo, that is created under the authority delegated in this section  
47 shall become effective only if it complies with and is subject to all of the provisions of chapter  
48 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,

49 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
50 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are  
51 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
52 or adopted after January 1, 2005, shall be invalid and void.

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