

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 827
94TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Public Health, May 3, 2007, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1986S.05C

AN ACT

To amend chapter 167, RSMo, by adding thereto one new section relating to educational needs of children in licensed residential care facilities.

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

Section A. Chapter 167, RSMo, is amended by adding thereto one new
2 section, to be known as section 167.128, to read as follows:

167.128. 1. The educational needs of each child under the
2 jurisdiction of the juvenile court or family court under subdivisions (1),
3 (2), or (5) of subsection 1 of section 211.031, RSMo, shall be considered
4 as part of the function of the child's family support team pursuant to
5 policy of the department of social services. Such needs shall include,
6 but not be limited to, the assumption that regular full school days of
7 education are warranted. For the purposes of this section, "full school
8 day" shall mean six hours in which the child is under the guidance and
9 direction of teachers in the education process. The local school district
10 shall be invited to have representation on the child's family support
11 team. If the school district designates a representative, the
12 representative shall be a full participant in the family support team.

13 2. Nothing in this section shall be construed to infringe upon the
14 rights or due process provisions of the federal Individuals with
15 Disabilities Education Act. Nothing in this section shall be construed
16 to impede the ability of the family support team or the facility staff
17 from making a referral for special education services, if appropriate,
18 when a child is placed in a facility described in this section without an
19 individualized education program or without a pending referral for

20 such services. If a child is referred for such services, the provisions of
21 the Individuals with Disabilities Education Act shall apply and control
22 while the referral is pending and through the evaluation process,
23 including provisions for educational decision-makers and educational
24 surrogates. Nothing in this section shall be construed to deny any child
25 domiciled in Missouri appropriate and necessary free public education
26 services.

27 3. When the department of social services by contract places a
28 child for treatment in a licensed residential care facility setting for
29 children as defined in section 210.481, RSMo, such facility shall be
30 responsible for the educational needs of the child if the child at the
31 time of placement does not have an individualized education program
32 or a pending referral for special education services under sections
33 162.670 to 162.999, RSMo.

34 (1) Such facilities operating an on-site school for which they hire
35 their own education staff shall:

36 (a) Provide, on site at such facility, a full school day of education
37 for each child placed in such facility by the department of social
38 services unless the child's plan of treatment and care supports his or
39 her ability to attend public school; and

40 (b) Be reimbursed by the local school district for the cost of
41 education services provided to children placed in their care by the
42 department of social services, as approved by the department of
43 elementary and secondary education, when the facility provides
44 education services. The local school district shall be compensated
45 under section 167.126, RSMo, for such education services.

46 No child placed in the facilities for treatment described in this
47 subdivision shall be considered by the local school district as
48 homebound for purposes of education unless the family support team
49 under subsection 1 of this section has approved homebound instruction.
50 A full school day of education shall be provided unless fewer hours of
51 instruction per day are approved by the family support team under
52 subsection 1 of this section. Nothing in this subdivision shall create an
53 obligation for a licensed residential care facility to have on-site
54 classrooms, to operate an on-site school, or to hire its own education
55 staff.

56 (2) When such facilities have on-site classrooms but do not hire

57 their own education staff, the local school district:

58 (a) Shall provide, on site at such facility, or at an alternative
59 location agreed upon under subsection 6 of this section, a full school
60 day of education for each child placed in such facility for care by the
61 department of social services unless the child's plan of treatment and
62 care supports his or her ability to attend public school;

63 (b) Shall be compensated under section 167.126 for such
64 education services, as approved by the department of elementary and
65 secondary education; and

66 (c) May consider such education services as homebound
67 instruction but shall provide each homebound child with a full school
68 day of education unless fewer hours of instruction per day are
69 approved by the family support team under subsection 1 of this section.
70 Nothing in this subdivision shall create an obligation for a licensed
71 residential care facility to have on-site classrooms, to operate an on-site
72 school, or to hire its own education staff.

73 (3) When such facilities do not operate an on-site school or have
74 on-site classrooms, the local school district shall:

75 (a) Provide a full school day of education for each child placed
76 in such facility for care by the department of social services; and

77 (b) Be compensated for such education services under section
78 167.126, as approved by the department of elementary and secondary
79 education.

80 If the child's behavior or plan of treatment and care does not support
81 the child's being educated in a regular education class, education
82 services shall be provided in an alternative setting approved by the
83 family support team under subsection 1 of this section. A full school
84 day of education shall be provided unless fewer hours of instruction
85 per day are approved by the family support team under subsection 1 of
86 this section. Nothing in this subdivision shall create an obligation for
87 a licensed residential care facility to have on-site classrooms, to
88 operate an on-site school, or to hire its own education staff.

89 4. Notwithstanding any other provision of law, a child placed for
90 treatment by the department of social services in a licensed residential
91 care facility setting for children as defined in section 210.481, RSMo,
92 who does not have an individualized education program for special
93 education services or a pending referral for such services under

94 sections 162.670 to 162.999, RSMo, whose plan of treatment and care
95 supports his or her ability to attend public school but who is then
96 suspended or otherwise demonstrates school failure based on behavior
97 or academic performance shall then be provided a full school day of
98 education according to subsection 3 of this section.

99 5. Nothing in this section shall prevent a licensed residential
100 care facility setting for children as defined in section 210.481, RSMo,
101 from contracting with school districts for education services. Nothing
102 in this section shall prevent a school district from contracting with a
103 licensed residential care facility setting for children as defined in
104 section 210.481, RSMo, for education services.

105 6. (1) Any residential treatment facility shall work with the
106 district and develop an educational plan that describes in general how
107 and where educational services will be provided to school-aged
108 residents of the treatment facility under a variety of possible
109 circumstances. The educational plan shall be developed jointly by the
110 appropriate staff of both the treatment facility and the public school
111 district, and the plan shall be signed annually by the administration of
112 both parties verifying their support for the plan.

113 (2) It is the intent that the educational plan follow the provisions
114 of this section, but treatment facilities and school districts may develop
115 provisions for educational services not included in this section if both
116 parties agree on the provisions and if the provisions offer a full-day
117 educational program for the students involved.

118 (3) It is understood as a condition of the plan that both the
119 treatment facility and school district shall be fully reimbursed, as
120 allowed by law in accordance with the availability of funds, for their
121 portions of the cost of providing educational services through such
122 sources as basic state aid, local district bill-back, and excess cost
123 reimbursement, as well as other possible sources, and that a school
124 district shall not be required to provide more total reimbursement to
125 a treatment facility than it receives from all such sources. The local
126 school district shall make all needed requests and applications for such
127 reimbursement.

128 (4) Each treatment facility and school district shall furnish a
129 signed copy of their educational plan to the department of elementary
130 and secondary education and to the department of social services no

131 later than June first of each year.

132 (5) If a treatment facility and school district cannot reach an
133 agreement on the education plan under this subsection, the differences
134 shall be resolved by an arbitration panel made up of one representative
135 from the department of elementary and secondary education, one
136 representative from the children's division of the department of social
137 services and one person appointed by the governor every three years,
138 serving at the pleasure of the governor, with the advice and consent of
139 the senate. A final decision shall be made by August fifteenth. Costs
140 for the arbitration panel shall be shared equally by the treatment
141 facility and the school district.

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