

SECOND REGULAR SESSION

HOUSE BILL NO. 1803

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MATTHIESEN.

4342H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 160.261 and 167.117, RSMo, and to enact in lieu thereof two new sections relating to requirements of school officials to report certain acts.

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

Section A. Sections 160.261 and 167.117, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 160.261 and 167.117, to read as follows: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 all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "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 professional basis while acting within the scope of their assigned duties. As

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.

18 used in this section, the phrase "act of school violence" or "violent behavior" means the exertion
19 of physical force by a student with the intent to do serious physical injury as defined in section
20 556.061 to another person while on school property, including a school bus in service on behalf
21 of the district, or while involved in school activities. The policy shall at a minimum require
22 school administrators to report, as soon as reasonably practical, to the appropriate law
23 enforcement agency any of the following crimes, or any act which if committed by an adult
24 would be one of the following crimes:

- 25 (1) First degree murder under section 565.020;
- 26 (2) Second degree murder under section 565.021;
- 27 (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or
28 kidnapping in the first degree under section 565.110;
- 29 (4) First degree assault under section 565.050;
- 30 (5) Rape in the first degree under section 566.030;
- 31 (6) Sodomy in the first degree under section 566.060;
- 32 (7) Burglary in the first degree under section 569.160;
- 33 (8) Burglary in the second degree under section 569.170;
- 34 (9) Robbery in the first degree under section 569.020 as it existed prior to January 1,
35 2017, or robbery in the first degree under section 570.023;
- 36 (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017,
37 or manufacture of a controlled substance under section 579.055;
- 38 (11) Distribution of drugs to a minor under section 195.212 as it existed prior to January
39 1, 2017, or delivery of a controlled substance under section 579.020;
- 40 (12) Arson in the first degree under section 569.040;
- 41 (13) Voluntary manslaughter under section 565.023;
- 42 (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1,
43 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary
44 manslaughter in the second degree under section 565.027;
- 45 (15) Second degree assault under section 565.060 as it existed prior to January 1, 2017,
46 or second degree assault under section 565.052;
- 47 (16) Rape in the second degree under section 566.031;
- 48 (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or
49 kidnapping in the second degree under section 565.120;
- 50 (18) Property damage in the first degree under section 569.100;
- 51 (19) The possession of a weapon under chapter 571;

52 (20) Child molestation in the first degree pursuant to section 566.067 as it existed prior
53 to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section
54 566.067, 566.068, or 566.069;

55 (21) Sodomy in the second degree pursuant to section 566.061;

56 (22) Sexual misconduct involving a child pursuant to section 566.083;

57 (23) Sexual abuse in the first degree pursuant to section 566.100; **or**

58 (24) ~~[Harassment under section 565.090 as it existed prior to January 1, 2017, or~~
59 ~~harassment in the first degree under section 565.090; or~~

60 ~~———(25)] Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking~~
61 ~~in the first degree under section 565.225[;]~~

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63 committed on school property, including but not limited to actions on any school bus in service
64 on behalf of the district or while involved in school activities. The policy shall require that any
65 portion of a student's individualized education program that is related to demonstrated or
66 potentially violent behavior shall be provided to any teacher and other school district employees
67 who are directly responsible for the student's education or who otherwise interact with the
68 student on an educational basis while acting within the scope of their assigned duties. The policy
69 shall also contain the consequences of failure to obey standards of conduct set by the local board
70 of education, and the importance of the standards to the maintenance of an atmosphere where
71 orderly learning is possible and encouraged.

72 3. The policy shall provide that any student who is on suspension for any of the offenses
73 listed in subsection 2 of this section or any act of violence or drug-related activity defined by
74 school district policy as a serious violation of school discipline pursuant to subsection 9 of this
75 section shall have as a condition of his or her suspension the requirement that such student is not
76 allowed, while on such suspension, to be within one thousand feet of any school property in the
77 school district where such student attended school or any activity of that district, regardless of
78 whether or not the activity takes place on district property unless:

79 (1) Such student is under the direct supervision of the student's parent, legal guardian,
80 or custodian and the superintendent or the superintendent's designee has authorized the student
81 to be on school property;

82 (2) Such student is under the direct supervision of another adult designated by the
83 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
84 which suspended the student and the superintendent or the superintendent's designee has
85 authorized the student to be on school property;

86 (3) Such student is enrolled in and attending an alternative school that is located within
87 one thousand feet of a public school in the school district where such student attended school;
88 or

89 (4) Such student resides within one thousand feet of any public school in the school
90 district where such student attended school in which case such student may be on the property
91 of his or her residence without direct adult supervision.

92 4. Any student who violates the condition of suspension required pursuant to subsection
93 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of
94 sections 167.161, 167.164, and 167.171. In making this determination consideration shall be
95 given to whether the student poses a threat to the safety of any child or school employee and
96 whether such student's unsupervised presence within one thousand feet of the school is disruptive
97 to the educational process or undermines the effectiveness of the school's disciplinary policy.
98 Removal of any pupil who is a student with a disability is subject to state and federal procedural
99 rights. This section shall not limit a school district's ability to:

100 (1) Prohibit all students who are suspended from being on school property or attending
101 an activity while on suspension;

102 (2) Discipline students for off-campus conduct that negatively affects the educational
103 environment to the extent allowed by law.

104 5. The policy shall provide for a suspension for a period of not less than one year, or
105 expulsion, for a student who is determined to have brought a weapon to school, including but
106 not limited to the school playground or the school parking lot, brought a weapon on a school bus
107 or brought a weapon to a school activity whether on or off of the school property in violation of
108 district policy, except that:

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

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

113 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
114 under 18 U.S.C. Section 921 and the following items, as defined in section 571.010: a blackjack,
115 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
116 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
117 knife; except that this section shall not be construed to prohibit a school board from adopting a
118 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
119 educational purposes so long as the firearm is unloaded. The local board of education shall
120 define weapon in the discipline policy. Such definition shall include the weapons defined in this
121 subsection but may also include other weapons.

122 7. All school district personnel responsible for the care and supervision of students are
123 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
124 property of the school, on any school bus going to or returning from school, during school-
125 sponsored activities, or during intermission or recess periods.

126 8. Teachers and other authorized district personnel in public schools responsible for the
127 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable
128 care by the school district, shall not be civilly liable when acting in conformity with the
129 established policies developed by each board, including but not limited to policies of student
130 discipline or when reporting to his or her supervisor or other person as mandated by state law
131 acts of school violence or threatened acts of school violence, within the course and scope of the
132 duties of the teacher, authorized district personnel or volunteer, when such individual is acting
133 in conformity with the established policies developed by the board. Nothing in this section shall
134 be construed to create a new cause of action against such school district, or to relieve the school
135 district from liability for the negligent acts of such persons.

136 9. Each school board shall define in its discipline policy acts of violence and any other
137 acts that constitute a serious violation of that policy. "Acts of violence" as defined by school
138 boards shall include but not be limited to exertion of physical force by a student with the intent
139 to do serious bodily harm to another person while on school property, including a school bus in
140 service on behalf of the district, or while involved in school activities. School districts shall for
141 each student enrolled in the school district compile and maintain records of any serious violation
142 of the district's discipline policy. Such records shall be made available to teachers and other
143 school district employees with a need to know while acting within the scope of their assigned
144 duties, and shall be provided as required in section 167.020 to any school district in which the
145 student subsequently attempts to enroll.

146 10. Spanking, when administered by certificated personnel and in the presence of a
147 witness who is an employee of the school district, or the use of reasonable force to protect
148 persons or property, when administered by personnel of a school district in a reasonable manner
149 in accordance with the local board of education's written policy of discipline, is not abuse within
150 the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the
151 children's division shall not have jurisdiction over or investigate any report of alleged child abuse
152 arising out of or related to the use of reasonable force to protect persons or property when
153 administered by personnel of a school district or any spanking administered in a reasonable
154 manner by any certificated school personnel in the presence of a witness who is an employee of
155 the school district pursuant to a written policy of discipline established by the board of education
156 of the school district, as long as no allegation of sexual misconduct arises from the spanking or
157 use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct to the children's division under section 210.115, such person and the superintendent of the school district shall report the allegation to the children's division as set forth in section 210.115. Reports made to the children's division under this subsection shall be investigated by the division in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this section for purposes of determining whether the allegations should or should not be substantiated. The district may investigate the allegations for the purpose of making any decision regarding the employment of the accused employee.

12. Upon receipt of any reports of child abuse by the children's division other than reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a school district, the children's division shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

13. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel or the use of reasonable force to protect persons or property when administered by school personnel pursuant to a written policy of discipline or that the report was made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the children's division and take no further action. In all matters referred back to the children's division, the division shall treat the report in the same manner as other reports of alleged child abuse received by the division.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the law enforcement in the county in which the alleged incident occurred.

15. The report shall be jointly investigated by the law enforcement officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by a law enforcement officer and the president of the school board or such president's designee.

16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The law enforcement officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

(2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's

229 division unless and until the alleged child abuse is substantiated by a court of competent
230 jurisdiction.

231 21. Any superintendent of schools, president of a school board or such person's designee
232 or law enforcement officer who knowingly falsifies any report of any matter pursuant to this
233 section or who knowingly withholds any information relative to any investigation or report
234 pursuant to this section is guilty of a class A misdemeanor.

235 22. In order to ensure the safety of all students, should a student be expelled for bringing
236 a weapon to school, violent behavior, or for an act of school violence, that student shall not, for
237 the purposes of the accreditation process of the Missouri school improvement plan, be
238 considered a dropout or be included in the calculation of that district's educational persistence
239 ratio.

167.117. 1. ~~[In any instance when any person is believed to have committed an act~~
2 ~~which if committed by an adult would be assault in the first, second or third degree, sexual~~
3 ~~assault, or deviate sexual assault against a pupil or school employee, while on school property,~~
4 ~~including a school bus in service on behalf of the district, or while involved in school activities,~~
5 ~~the principal shall immediately report such incident to the appropriate local law enforcement~~
6 ~~agency and to the superintendent, except in any instance when any person is believed to have~~
7 ~~committed an act which if committed by an adult would be assault in the third degree and a~~
8 ~~written agreement as to the procedure for the reporting of such incidents of third degree assault~~
9 ~~has been executed between the superintendent of the school district and the appropriate local law~~
10 ~~enforcement agency, the principal shall report such incident to the appropriate local law~~
11 ~~enforcement agency in accordance with such agreement.] For purposes of this section, "on~~
12 **school premises" means on any school property including, but not limited to, a school**
13 **playground or school parking lot; on any school bus in service on behalf of the school**
14 **district; or while involved in school activities regardless of whether the activity is on or off**
15 **school property.**

16 2. In any instance when a pupil is discovered to have on or about such pupil's person, or
17 among such pupil's possessions, or placed elsewhere on ~~[the]~~ school premises~~[-including but not~~
18 ~~limited to the school playground or the school parking lot, on a school bus or at a school activity~~
19 ~~whether on or off of school property]~~ any controlled substance as defined in section 195.010 or
20 any weapon as defined in subsection 6 of section 160.261 in violation of school policy, the
21 principal shall ~~[immediately]~~ **as soon as reasonably practical** report such incident to the
22 appropriate local law enforcement agency and to the superintendent. **In any instance when a**
23 **teacher becomes aware that a pupil is in possession of a controlled substance or any**
24 **weapon on school premises, the teacher shall as soon as reasonably practical report such**
25 **incident to the principal.**

26 3. ~~[In any instance when a teacher becomes aware of an assault as set forth in subsection~~
27 ~~1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth~~
28 ~~in subsection 2 of this section, the teacher shall immediately report such incident to the~~
29 ~~principal.]~~ **In any instance when a pupil is believed to have committed an act listed in**
30 **subdivisions (1) to (24) of subsection 2 of section 160.261 on school premises, the principal**
31 **shall as soon as reasonably practical report such incident to the appropriate law**
32 **enforcement agency; to the superintendent; and, if there is a victim, to the parents or legal**
33 **guardian of each victim. In any instance when a teacher becomes aware that a pupil has**
34 **committed an act listed in subdivisions (1) to (24) of subsection 2 of section 160.261 on**
35 **school premises, the teacher shall as soon as reasonably practical report such incident to**
36 **the principal.**

37 4. A school employee, superintendent, or such person's designee who in good faith
38 provides information to law enforcement or juvenile authorities pursuant to this section or
39 section 160.261 **or provides information to law enforcement or juvenile authorities**
40 **regarding an instance in which a pupil is believed to have committed an act that, if**
41 **committed by an adult, would be assault in the third degree as defined in section 565.054**
42 **or assault in the fourth degree as defined in section 565.056** shall not be civilly liable for
43 providing such information.

44 5. Any school official responsible for reporting pursuant to this section or section
45 160.261 who willfully neglects or refuses to perform this duty shall be subject to the penalty
46 established pursuant to section 162.091.

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