

SECOND REGULAR SESSION

HOUSE BILL NO. 2479

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUTH.

5297H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 168.133, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.133, to read as follows: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. As used in this section, "screened volunteer" shall mean any person who assists a school by providing uncompensated service and who may periodically be left alone with students. The school district shall ensure that a criminal background check is conducted for all screened volunteers, who shall complete the criminal background check prior to being left alone with a student. Screened volunteers include, but are not limited to, persons who regularly assist in the office or library, mentor or tutor students, coach or supervise a school-sponsored activity before or after school, or chaperone students on an overnight trip. Screened volunteers may only access student education records when necessary to assist the district and while supervised by staff members. Volunteers that are not screened shall not be left alone with a student or have access to student records.

2. 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, **substitute teachers**, aides, paraprofessionals, assistants, secretaries, custodians, cooks, screened volunteers, 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,

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 the school district shall be responsible for conducting the criminal background check on drivers
19 employed by the school district. For drivers employed by a pupil transportation company under
20 contract with the school district, the criminal background check shall be conducted pursuant to
21 section 43.540 and conform to the requirements established in the National Child Protection Act
22 of 1993, as amended by the Volunteers for Children Act. Personnel who have successfully
23 undergone a criminal background check and a check of the family care safety registry as part of
24 the professional license application process under section 168.021 and who have received
25 clearance on the checks within one prior year of employment shall be considered to have
26 completed the background check requirement. A criminal background check under this section
27 shall include a search of any information publicly available in an electronic format through a
28 public index or single case display.

29 3. In order to facilitate the criminal history background check, the applicant shall submit
30 a set of fingerprints collected pursuant to standards determined by the Missouri highway patrol.
31 The fingerprints shall be used by the highway patrol to search the criminal history repository and
32 shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal
33 history files.

34 4. The applicant shall pay the fee for the state criminal history record information
35 pursuant to section 43.530 and sections 210.900 to 210.936 and pay the appropriate fee
36 determined by the Federal Bureau of Investigation for the federal criminal history record when
37 ~~[he or she]~~ **the applicant** applies for a position authorized to have contact with pupils pursuant
38 to this section. The department shall distribute the fees collected for the state and federal
39 criminal histories to the Missouri highway patrol.

40 **5. For each school district that is not enrolled in the Missouri Rap Back program**
41 **under chapter 43**, the department of elementary and secondary education shall facilitate an
42 annual check of employed persons holding current active certificates under section 168.021
43 against criminal history records in the central repository under section 43.530, the sexual
44 offender registry under sections 589.400 to 589.426, and child abuse central registry under
45 sections 210.109 to 210.183. The department of elementary and secondary education shall
46 facilitate procedures for school districts to submit personnel information annually for persons
47 employed by the school districts who do not hold a current valid certificate who are required by
48 subsection 1 of this section to undergo a criminal background check, sexual offender registry
49 check, and child abuse central registry check. The Missouri state highway patrol shall provide
50 ongoing electronic updates to criminal history background checks of those persons previously
51 submitted, both those who have an active certificate and those who do not have an active
52 certificate, by the department of elementary and secondary education. This shall fulfill the
53 annual check against the criminal history records in the central repository under section 43.530.

54 6. The school district may adopt a policy to provide for reimbursement of expenses
55 incurred by an employee for state and federal criminal history information pursuant to section
56 43.530.

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

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

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

71 10. A criminal background check and fingerprint collection conducted under subsections
72 1 to 3 of this section shall be valid for at least a period of one year and transferrable from one
73 school district to another district. A school district may, in its discretion, conduct a new criminal
74 background check and fingerprint collection under subsections 1 to 3 **of this section** for a newly
75 hired employee at the district's expense. A teacher's change in type of certification shall have no
76 effect on the transferability or validity of such records.

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

79 12. **For all years beginning on or after January 1, 2021, any substitute teacher may,**
80 **at the time such substitute teacher submits the fingerprints and information required for**
81 **the Missouri criminal record review under subsections 2 and 3 of this section, designate up**
82 **to five school districts to which the results of the substitute teacher's criminal history**
83 **background check and fingerprint collection shall be disseminated. The substitute teacher**
84 **shall pay an additional five-dollar fee for such records to be disseminated to the second and**
85 **third school districts and an additional five-dollar fee for such records to be disseminated**
86 **to the fourth and fifth school districts.**

87 13. The state board of education may promulgate rules for criminal history background
88 checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in
89 section 536.010, that is created under the authority delegated in this section shall become

90 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
91 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
92 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
93 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
94 rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and
95 void.

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