

FIRST REGULAR SESSION

HOUSE BILL NO. 160

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MACKEY.

0347H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 160.261, RSMo, and to enact in lieu thereof one new section relating to corporal punishment in schools.

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Section A. Section 160.261, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.261, to read as follows: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]~~. **Each school district's discipline policy shall prohibit the use of corporal punishment and spanking.** 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. ~~[No pupil shall be subject to corporal punishment procedures outlined in the discipline and corporal punishment policy without a parent or guardian being notified and providing written permission for the corporal punishment.]~~ 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.

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.

16 2. (1) The policy shall require school administrators to report acts of school violence
17 to all teachers at the attendance center and, in addition, to other school district employees with
18 a need to know.

19 (2) For the purposes of this chapter or chapter 167, "need to know" is defined as
20 school personnel who are directly responsible for the student's education or who otherwise
21 interact with the student on a professional basis while acting within the scope of their
22 assigned duties. As used in this section, the phrase "act of school violence" or "violent
23 behavior" means the exertion of physical force by a student with the intent to do serious
24 physical injury as defined in section 556.061 to another person while on school property,
25 including a school bus in service on behalf of the district, or while involved in school
26 activities.

27 (3) The policy shall, at a minimum, require school administrators to report, as soon as
28 reasonably ~~[practical]~~ **practicable**, to the appropriate law enforcement agency any of the
29 following crimes, or any act which if committed by an adult would be one of the following
30 crimes, **committed on school property including, but not limited to, actions on any school**
31 **bus in service on behalf of the district or while involved in school activities:**

32 ~~[(1)]~~ (a) First degree murder under section 565.020;

33 ~~[(2)]~~ (b) Second degree murder under section 565.021;

34 ~~[(3)]~~ (c) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or
35 kidnapping in the first degree under section 565.110;

36 ~~[(4)]~~ (d) First degree assault under section 565.050;

37 ~~[(5)]~~ (e) Rape in the first degree under section 566.030;

38 ~~[(6)]~~ (f) Sodomy in the first degree under section 566.060;

39 ~~[(7)]~~ (g) Burglary in the first degree under section 569.160;

40 ~~[(8)]~~ (h) Burglary in the second degree under section 569.170;

41 ~~[(9)]~~ (i) Robbery in the first degree under section 569.020 as it existed prior to
42 January 1, 2017, or robbery in the first degree under section 570.023;

43 ~~[(10)]~~ (j) Distribution of drugs under section 195.211 as it existed prior to January 1,
44 2017, or manufacture of a controlled substance under section 579.055;

45 ~~[(11)]~~ (k) Distribution of drugs to a minor under section 195.212 as it existed prior to
46 January 1, 2017, or delivery of a controlled substance under section 579.020;

47 ~~[(12)]~~ (l) Arson in the first degree under section 569.040;

48 ~~[(13)]~~ (m) Voluntary manslaughter under section 565.023;

49 ~~[(14)]~~ (n) Involuntary manslaughter under section 565.024 as it existed prior to
50 January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or
51 involuntary manslaughter in the second degree under section 565.027;

52 ~~[(15)]~~ (o) Second degree assault under section 565.060 as it existed prior to January 1,
53 2017, or second degree assault under section 565.052;
54 ~~[(16)]~~ (p) Rape in the second degree under section 566.031;
55 ~~[(17)]~~ (q) Felonious restraint under section 565.120 as it existed prior to January 1,
56 2017, or kidnapping in the second degree under section 565.120;
57 ~~[(18)]~~ (r) Property damage in the first degree under section 569.100;
58 ~~[(19)]~~ (s) The possession of a weapon under chapter 571;
59 ~~[(20)]~~ (t) Child molestation in the first degree pursuant to section 566.067 as it
60 existed prior to January 1, 2017, or child molestation in the first, second, or third degree
61 pursuant to section 566.067, 566.068, or 566.069;
62 ~~[(21)]~~ (u) Sodomy in the second degree pursuant to section 566.061;
63 ~~[(22)]~~ (v) Sexual misconduct involving a child pursuant to section 566.083;
64 ~~[(23)]~~ (w) Sexual abuse in the first degree pursuant to section 566.100;
65 ~~[(24)]~~ (x) Harassment under section 565.090 as it existed prior to January 1, 2017, or
66 harassment in the first degree under section 565.090; or
67 ~~[(25)]~~ (y) Stalking under section 565.225 as it existed prior to January 1, 2017, or
68 stalking in the first degree under section 565.225[;].

69

70 ~~[committed on school property, including but not limited to actions on any school bus in~~
71 ~~service on behalf of the district or while involved in school activities.]~~

72 (4) The policy shall require that any portion of a student's individualized education
73 program that is related to demonstrated or potentially violent behavior shall be provided to
74 any teacher and other school district employees who are directly responsible for the student's
75 education or who otherwise interact with the student on an educational basis while acting
76 within the scope of ~~[their]~~ **such teacher's or employees'** assigned duties.

77 (5) The policy shall also contain the consequences of failure to obey standards of
78 conduct set by the local board of education, and the importance of the standards to the
79 maintenance of an atmosphere where orderly learning is possible and encouraged.

80 3. The policy shall provide that any student who is on suspension for any of the
81 offenses listed in subsection 2 of this section or any act of violence or drug-related activity
82 defined by school district policy as a serious violation of school discipline pursuant to
83 subsection 9 of this section shall have as a condition of ~~[his or her]~~ **the student's** suspension
84 the requirement that such student is not allowed, while on such suspension, to be within one
85 thousand feet of any school property in the school district where such student attended school
86 or any activity of that district, regardless of whether or not the activity takes place on district
87 property unless:

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

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

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

98 (4) Such student resides within one thousand feet of any public school in the school
99 district where such student attended school in which case such student may be on the property
100 of ~~his or her~~ **such student's** residence without direct adult supervision.

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

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

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

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

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

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

122 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
123 under 18 U.S.C. Section 921 and the following items, as defined in section 571.010: a
124 blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas

125 gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or
126 a switchblade knife; except that this section shall not be construed to prohibit a school board
127 from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on
128 school property for educational purposes so long as the firearm is unloaded. The local board
129 of education shall define weapon in the discipline policy. Such definition shall include the
130 weapons defined in this subsection but may also include other weapons.

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

135 8. Teachers and other authorized district personnel in public schools responsible for
136 the care, supervision, and discipline of schoolchildren, including volunteers selected with
137 reasonable care by the school district, shall not be civilly liable when acting in conformity
138 with the established policies developed by each board, including but not limited to policies of
139 student discipline or when reporting to ~~[his or her]~~ **such individual's** supervisor or other
140 person as mandated by state law acts of school violence or threatened acts of school violence,
141 within the course and scope of the duties of the teacher, authorized district personnel or
142 volunteer, when such individual is acting in conformity with the established policies
143 developed by the board. Nothing in this section shall be construed to create a new cause of
144 action against such school district, or to relieve the school district from liability for the
145 negligent acts of such persons.

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

156 10. ~~[Spanking, when administered by certificated personnel and in the presence of a~~
157 ~~witness who is an employee of the school district, or]~~ **No school district or charter school**
158 **shall use corporal punishment or spanking to discipline a student.** The use of reasonable
159 force to protect persons or property, when administered by personnel of a school district in a
160 reasonable manner in accordance with the local board of education's written policy of
161 discipline, is not abuse within the meaning of chapter 210.

162 11. Upon receipt of any reports of child abuse by the children's division pursuant to
163 sections 210.110 to 210.165 which allegedly involve personnel of a school district, the
164 children's division shall notify the superintendent of schools of the district or, if the person
165 named in the alleged incident is the superintendent of schools, the president of the school
166 board of the school district where the alleged incident occurred.

167 12. In order to ensure the safety of all students, ~~[should]~~ if a student ~~[be]~~ is expelled
168 for bringing a weapon to school, violent behavior, or for an act of school violence, that
169 student shall not, for the purposes of the accreditation process of the Missouri school
170 improvement plan, be considered a dropout or be included in the calculation of that district's
171 educational persistence ratio.

172 **13. As used in this section, "corporal punishment" means the infliction of pain**
173 **by an adult upon the body of a child as penalty for doing something that has been**
174 **disapproved of by the adult.**

✓