

FIRST REGULAR SESSION

# HOUSE BILL NO. 538

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

1144H.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 transportation.

*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Section A. Section 168.133, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.133, to read as follows: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 **or charter school** 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. **(1)** The school district **or charter school** 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, screened volunteers, and nurses.]~~

**(2)** The school district **or charter school** shall also ensure that a criminal background check is conducted for school bus drivers **and drivers of other vehicles owned by the school**

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 **district or charter school or operated under contract with a school district or charter**  
19 **school and used for the purpose of transporting school children.** The school district or  
20 **charter school** may allow such drivers to operate buses pending the result of the criminal  
21 background check. [~~For bus drivers,~~] The school district **or charter school** shall be  
22 responsible for conducting the criminal background check on drivers employed by the school  
23 district **or charter school under section 43.540.**

24 (3) For drivers employed **or contracted** by a pupil transportation company under  
25 contract with the school district **or a charter school**, the criminal background check shall be  
26 conducted **by the pupil transportation company** pursuant to section [~~43.540~~] **43.539** and  
27 conform to the requirements established in the National Child Protection Act of 1993, as  
28 amended by the Volunteers for Children Act.

29 (4) Personnel who have successfully undergone a criminal background check and a  
30 check of the family care safety registry as part of the professional license application process  
31 under section 168.021 and who have received clearance on the checks within one prior year  
32 of employment shall be considered to have completed the background check requirement.

33 (5) A criminal background check under this section shall include a search of any  
34 information publicly available in an electronic format through a public index or single case  
35 display.

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

41 4. The applicant shall pay the fee for the state criminal history record information  
42 pursuant to section 43.530 and sections 210.900 to 210.936 and pay the appropriate fee  
43 determined by the Federal Bureau of Investigation for the federal criminal history record  
44 when he or she applies for a position authorized to have contact with pupils pursuant to this  
45 section. The department shall distribute the fees collected for the state and federal criminal  
46 histories to the Missouri highway patrol.

47 5. The department of elementary and secondary education shall facilitate an annual  
48 check of employed persons holding current active certificates under section 168.021 against  
49 criminal history records in the central repository under section 43.530, the sexual offender  
50 registry under sections 589.400 to 589.426, and child abuse central registry under sections  
51 210.109 to 210.183. The department of elementary and secondary education shall facilitate  
52 procedures for school districts to submit personnel information annually for persons  
53 employed by the school districts who do not hold a current valid certificate who are required  
54 by subsection 1 of this section to undergo a criminal background check, sexual offender

55 registry check, and child abuse central registry check. The Missouri state highway patrol  
56 shall provide ongoing electronic updates to criminal history background checks of those  
57 persons previously submitted, both those who have an active certificate and those who do not  
58 have an active certificate, by the department of elementary and secondary education. This  
59 shall fulfill the annual check against the criminal history records in the central repository  
60 under section 43.530.

61           6. The school district may adopt a policy to provide for reimbursement of expenses  
62 incurred by an employee for state and federal criminal history information pursuant to section  
63 43.530.

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

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

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

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

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

87           12. The state board of education may promulgate rules for criminal history  
88 background checks made pursuant to this section. Any rule or portion of a rule, as that term is  
89 defined in section 536.010, that is created under the authority delegated in this section shall  
90 become effective only if it complies with and is subject to all of the provisions of chapter 536  
91 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any

92 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
93 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then  
94 the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005,  
95 shall be invalid and void.

✓