

FIRST REGULAR SESSION

HOUSE BILL NO. 1109

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CUPPS.

2397H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 167.012, 167.013, 167.042, 210.167, and 211.031, RSMo, and to enact in lieu thereof four new sections relating to home school protections.

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

Section A. Sections 167.012, 167.013, 167.042, 210.167, and 211.031, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 167.012,
3 167.013, 210.167, and 211.031, to read as follows:

167.012. 1. For purposes of state law regarding this section and sections 161.670,
2 162.996, 167.013, 167.031, [~~167.042,~~] 167.061, 167.600, 167.619, 210.167, 210.211,
3 211.031, and 452.375, a "home school" is a school, whether incorporated or
4 unincorporated, that:

5 (1) Has as its primary purpose the provision of private or religious-based instruction;

6 (2) Enrolls children between the ages of seven years and the compulsory attendance
7 age for the school district in which the home school is located, of which no more than four are
8 unrelated by affinity or consanguinity in the third degree;

9 (3) Does not charge or receive consideration in the form of tuition, fees, or other
10 remuneration in a genuine and fair exchange for provision of instruction;

11 (4) Does not enroll children who participate in the program established in sections
12 135.712 to 135.719 and sections 166.700 to 166.720; and

13 (5) Is not an FPE school.

14 2. Except as otherwise provided in [~~this~~] subsection **3 of this section**, as evidence that
15 a child is receiving regular instruction, the child's parent, guardian, or other person having
16 control or custody of the child shall:

EXPLANATION — Matter enclosed in bold-faced brackets [~~this~~] 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.

17 (1) Maintain the following records:

18 (a) a. A plan book, diary, or other written record indicating subjects taught and
19 activities engaged in;

20 b. A portfolio of samples of the child's academic work; and

21 c. A record of evaluations of the child's academic progress; or

22 (b) Other written or credible evidence equivalent to subparagraphs a. to c. of
23 paragraph (a) of this subdivision; and

24 (2) Offer at least one thousand hours of instruction, at least six hundred hours of
25 which shall be in reading, language arts, mathematics, social studies, science, or academic
26 courses that are related to such subject areas and consonant with the child's age and ability.
27 At least four hundred of the six hundred hours shall occur at the regular home school location
28 [;].

29 [~~3~~] **3.** The requirements of [~~this~~] subsection **2 of this section** shall not apply to any
30 pupil sixteen years of age or older.

31 [~~3~~] **4.** The production of a daily log by a parent, guardian, or other person having
32 control or custody of a child showing that a home school has a course of instruction that
33 satisfies the requirements of this section and section 167.031 or, in the case of a pupil sixteen
34 years of age or older who attended a metropolitan school district the previous year, a written
35 statement that the pupil is attending home school in compliance with section 167.031 shall be
36 a defense to any prosecution under section 167.031 and to any charge or action for
37 educational neglect brought under chapter 210.

38 **5.** Home school education enforcement and records pursuant to this section, and
39 sections 210.167 and 211.031, shall be subject to review only by the local prosecuting
40 attorney **and such review shall be based only upon probable cause.**

167.013. 1. For purposes of state law regarding this section and sections 161.670,
2 162.996, 166.700, 167.012, 167.031, 167.061, 167.600, 167.619, 210.167, 210.211, 211.031,
3 and 452.375, a "Family Paced Education (FPE) school" or "FPE school" is a school, whether
4 incorporated or unincorporated, that:

5 (1) Has as its primary purpose the provision of private or religious-based instruction;

6 (2) Enrolls children between the ages of seven years and the compulsory attendance
7 age for the school district in which the FPE school is located, of which no more than four are
8 unrelated by affinity or consanguinity in the third degree;

9 (3) Does not charge or receive consideration in the form of tuition, fees, or other
10 remuneration in a genuine and fair exchange for provision of instruction; and

11 (4) May enroll children who participate in the program established in sections
12 135.712 to 135.719 and sections 166.700 to 166.720.

13 2. Except as otherwise provided in ~~[this]~~ subsection **3 of this section**, as evidence that
14 a child is receiving regular instruction, the child's parent, guardian, or other person having
15 control or custody of the child shall:

16 (1) Maintain the following records:

17 (a) a. A plan book, diary, or other written record indicating subjects taught and
18 activities engaged in;

19 b. A portfolio of samples of the child's academic work; and

20 c. A record of evaluations of the child's academic progress; or

21 (b) Other written or credible evidence equivalent to subparagraphs a. to c. of
22 paragraph (a) of this subdivision; and

23 (2) Offer at least one thousand hours of instruction, at least six hundred hours of
24 which shall be in reading, language arts, mathematics, social studies, science, or academic
25 courses that are related to such subject areas and consonant with the child's age and ability.
26 At least four hundred of the six hundred hours shall occur at the regular FPE school location
27 ~~[§]~~.

28 ~~[(3)]~~ **3.** The requirements of ~~[this]~~ subsection **2 of this section** shall not apply to any
29 pupil sixteen years of age or older.

30 ~~[3-]~~ **4.** The production of a daily log by a parent, guardian, or other person having
31 control or custody of a child showing that an FPE school has a course of instruction that
32 satisfies the requirements of this section and section 167.031 or, in the case of a pupil sixteen
33 years of age or older who attended a metropolitan school district the previous year, a written
34 statement that the pupil is attending an FPE school in compliance with section 167.031 shall
35 be a defense to any prosecution under section 167.031 and to any charge or action for
36 educational neglect brought under chapter 210.

37 **5.** FPE school education enforcement and records pursuant to this section, and
38 sections 210.167 and 211.031, shall be subject to review only by the local prosecuting
39 attorney **and such review shall be based only upon probable cause.**

210.167. If an investigation conducted by the children's division under section
2 210.145 reveals that the only basis for action involves a question of an alleged violation of
3 section 167.031, then the local office of the division shall send the report to the school district
4 in which the child resides. The school district shall immediately refer all private, parochial,
5 parish, home school, or FPE school matters to the prosecuting attorney of the county wherein
6 the child legally resides. The school district may refer public school violations of section
7 167.031 to the prosecuting attorney. **Any investigation for a violation of section 167.031**
8 **involving a child who is being home schooled or who is enrolled in an FPE school shall**
9 **be subject to review only by the local prosecuting attorney and shall be based only upon**
10 **probable cause.**

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in chapter 487 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child is otherwise without proper care, custody or support;

(c) The child was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130; or

(d) The child is in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school;

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control;

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification;

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of eighteen years, in which cases jurisdiction may be taken by the

38 court of the circuit in which the violation is alleged to have occurred, except as provided in
39 subsection 2 of this section; except that, the juvenile court shall not have jurisdiction over any
40 child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance
41 or regulation, the violation of which does not constitute a felony, and except that the juvenile
42 court shall have concurrent jurisdiction with the municipal court over any child who is alleged
43 to have violated a municipal curfew ordinance, and except that the juvenile court shall have
44 concurrent jurisdiction with the circuit court on any child who is alleged to have violated a
45 state or municipal ordinance or regulation prohibiting possession or use of any tobacco
46 product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child to the guardianship of the department of social
49 services as provided by law;

50 (6) Involving an order of protection pursuant to chapter 455 when the respondent is
51 less than eighteen years of age; and

52 (7) Involving a child who has been a victim of sex trafficking or sexual exploitation.

53 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child who resides
54 in a county of this state shall be made as follows:

55 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
56 the juvenile officer, the matter in the interest of a child may be transferred by the juvenile
57 officer, with the prior consent of the juvenile officer of the receiving court, to the county of
58 the child's residence or the residence of the person eighteen years of age for future action;

59 (2) Upon the motion of any party or on its own motion prior to final disposition on the
60 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
61 a child to the court located in the county of the child's residence, or the county in which the
62 offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred
63 for further action;

64 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
65 been taken pursuant to subsection 1 of this section may at any time thereafter transfer
66 jurisdiction of a child to the court located in the county of the child's residence for further
67 action with the prior consent of the receiving court;

68 (4) Upon motion of any party or upon its own motion at any time following a
69 judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction
70 of the cause may place the child under the supervision of another juvenile court within or
71 without the state pursuant to section 210.570 with the consent of the receiving court;

72 (5) Upon motion of any child or his or her parent, the court having jurisdiction shall
73 grant one change of judge pursuant to Missouri supreme court rules;

74 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child,
75 certified copies of all legal and social documents and records pertaining to the case on file
76 with the clerk of the transferring juvenile court shall accompany the transfer.

77 3. In any proceeding involving any child taken into custody in a county other than the
78 county of the child's residence, the juvenile court of the county of the child's residence shall
79 be notified of such taking into custody within seventy-two hours.

80 4. When an investigation by a juvenile officer pursuant to this section reveals that the
81 only basis for action involves an alleged violation of section 167.031 involving a child who
82 alleges to be receiving instruction at a home school or an FPE school, the juvenile officer
83 shall contact a parent or parents of such child to verify that the child is receiving instruction at
84 such school and not in violation of section 167.031 before making a report of such a violation.
85 Any report of a violation of section 167.031 made by a juvenile officer regarding a child who
86 is receiving instruction at a home school or an FPE school shall be made **only** to the
87 prosecuting attorney of the county where the child legally resides **and shall be based only**
88 **upon probable cause.**

89 5. The disability or disease of a parent shall not constitute a basis for a determination
90 that a child is a child in need of care or for the removal of custody of a child from the parent
91 without a specific showing that there is a causal relation between the disability or disease and
92 harm to the child.

2 ~~[167.042. For the purpose of minimizing unnecessary investigations~~
3 ~~due to reports of truancy, each parent, guardian, or other person responsible for~~
4 ~~the child who causes his child to attend regularly a home school may provide~~
5 ~~to the recorder of deeds of the county where the child legally resides, or to the~~
6 ~~chief school officer of the public school district where the child legally resides,~~
7 ~~a signed, written declaration of enrollment stating their intent for the child to~~
8 ~~attend a home school within thirty days after the establishment of the home~~
9 ~~school and by September first annually thereafter. The name and age of each~~
10 ~~child attending the home school, the address and telephone number of the~~
11 ~~home school, the name of each person teaching in the home school, and the~~
12 ~~name, address and signature of each person making the declaration of~~
13 ~~enrollment shall be included in said notice. A declaration of enrollment to~~
14 ~~provide a home school shall not be cause to investigate violations of section~~
15 ~~167.031. The recorder of deeds may charge a service cost of not more than~~
~~one dollar for each notice filed.]~~

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