

SECOND REGULAR SESSION

HOUSE BILL NO. 1677

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SELBY, BRAY, BARTELSMEYER (Co-sponsors),
ROBIRDS AND BOUCHER.

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TED WEDEL, Chief Clerk

2907L.021

AN ACT

To repeal sections 167.031 and 167.161, RSMo, and to enact in lieu thereof four new sections relating to the administration of psychotropic medications to minors.

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

Section A. Sections 167.031 and 167.161, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 167.031, 167.161, 167.195 and 334.267, to read
3 as follows:

167.031. 1. Every parent, guardian or other person in this state having charge, control
2 or custody of a child not enrolled in a public, private, parochial, parish school or full-time
3 equivalent attendance in a combination of such schools and between the ages of seven and
4 sixteen years is responsible for enrolling the child in a program of academic instruction which
5 complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a
6 child between the ages of five and seven years in a public school program of academic
7 instruction shall cause such child to attend the academic program on a regular basis, according
8 to this section. Nonattendance by such child shall cause such parent, guardian or other
9 responsible person to be in violation of the provisions of section 167.061, except as provided by
10 this section. A parent, guardian or other person in this state having charge, control, or custody
11 of a child between the ages of seven and sixteen years of age shall cause the child to attend
12 regularly some public, private, parochial, parish, home school or a combination of such schools
13 not less than the entire school term of the school which the child attends; except that

14 (1) A child who, to the satisfaction of the superintendent of public schools of the district
15 in which he resides, or if there is no superintendent then the chief school officer, is determined
16 to be mentally or physically incapacitated may be excused from attendance at school for the full
17 time required, or any part thereof. **If the school, medical staff, certified school counselor, or**

18 **school social worker identify a child whose behavior represents a potential of harm to the**
19 **child or other persons, or represents a clinical level of behavioral deviance as determined**
20 **by a licensed mental health care professional, the school may refuse to admit such child**
21 **until such time as a mental health assessment has been performed by a licensed mental**
22 **health care professional and a treatment plan established that is acceptable to such**
23 **professional and the child's parents;**

24 (2) A child between fourteen and sixteen years of age may be excused from attendance
25 at school for the full time required, or any part thereof, by the superintendent of public schools
26 of the district, or if there is none then by a court of competent jurisdiction, when legal
27 employment has been obtained by the child and found to be desirable, and after the parents or
28 guardian of the child have been advised of the pending action; or

29 (3) A child between five and seven years of age shall be excused from attendance at
30 school if a parent, guardian or other person having charge, control or custody of the child makes
31 a written request that the child be dropped from the school's rolls.

32 2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether
33 incorporated or unincorporated, that:

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

35 (b) Enrolls pupils between the ages of seven and sixteen years, of which no more than
36 four are unrelated by affinity or consanguinity in the third degree; and

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

39 (2) As evidence that a child is receiving regular instruction, the parent shall:

40 (a) Maintain the following records:

41 a. A plan book, diary, or other written record indicating subjects taught and activities
42 engaged in; and

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

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

45 d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

46 (b) Offer at least one thousand hours of instruction, at least six hundred hours of which
47 will be in reading, language arts, mathematics, social studies and science or academic courses
48 that are related to the aforementioned subject areas and consonant with the pupil's age and
49 ability. At least four hundred of the six hundred hours shall occur at the regular home school
50 location.

51 3. Nothing in this section shall require a private, parochial, parish or home school to
52 include in its curriculum any concept, topic, or practice in conflict with the school's religious
53 doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the

54 school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all
55 departments or agencies of the state of Missouri shall be prohibited from dictating through rule,
56 regulation or other device any statewide curriculum for private, parochial, parish or home
57 schools.

58 4. A school year begins on the first day of July and ends on the thirtieth day of June
59 following.

60 5. The production by a parent of a daily log showing that a home school has a course of
61 instruction which satisfies the requirements of this section shall be a defense to any prosecution
62 under this section and to any charge or action for educational neglect brought pursuant to chapter
63 210, RSMo.

167.161. 1. The school board of any district, after notice to parents or others having
2 custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct
3 which is prejudicial to good order and discipline in the schools or which tends to impair the
4 morale or good conduct of the pupils. In addition to the authority granted in section 167.171,
5 a school board may authorize, by general rule, the immediate removal of a pupil upon a finding
6 by the principal, superintendent, or school board that the pupil poses a threat of harm to such
7 pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall
8 not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any
9 pupil who is a student with a disability is subject to state and federal procedural rights. At the
10 hearing upon any such removal, suspension or expulsion, the board shall consider the evidence
11 and statements that the parties present and may consider records of past disciplinary actions,
12 criminal court records or juvenile court records consistent with other provisions of the law, or
13 the actions of the pupil which would constitute a criminal offense. The board may provide by
14 general rule not inconsistent with this section for the procedure and conduct of such hearings.
15 After meeting with the superintendent or his designee to discuss the expulsion, the parent,
16 custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a
17 hearing before the board of education.

18 2. The school board of any district, after notice to parents or others having custodial care
19 and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been
20 charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony
21 criminal violation of state or federal law. At a hearing required by this subsection, the board
22 shall consider statements that the parties present. The board may provide for the procedure and
23 conduct of such hearings.

24 3. The school board shall make a good-faith effort to have the parents or others having
25 custodial care present at any such hearing. Notwithstanding any other provision of law to the
26 contrary, student discipline hearings or proceedings related to the rights of students to attend

27 school or to receive academic credit shall not be required to comply with the requirements
28 applicable to contested case hearings as provided in chapter 536, RSMo, provided that
29 appropriate due process procedures shall be observed which shall include the right for a trial de
30 novo by the circuit court.

31 **4. The school board shall not require a parent in a readmission plan to administer**
32 **psychotropic medication to the parent's child as a condition of such child being admitted**
33 **or readmitted to school after being suspended.**

167.195. 1. Each local board of education shall adopt, and implement policies
2 **prohibiting any school personnel from recommending the use of psychotropic medications**
3 **for any child. Nothing in this subsection shall prohibit school medical staff, certified school**
4 **counselors, or social workers from recommending that a child be evaluated by a licensed**
5 **mental health care professional or prohibit school personnel from consulting with the**
6 **health care professional with the consent of the parents or guardians of the child.**

7 **2. For students that have been diagnosed by a licensed mental health care**
8 **professional with a mental illness or other condition for which psychotropic medications**
9 **can be used as an intervention, schools shall develop and implement an individual**
10 **educational program for such students that considers positive behavioral interventions,**
11 **strategies, and supports which address the behaviors of such students.**

334.267. 1. Before prescribing a psychotropic medication for a minor, any licensed
2 **physician with prescription authority shall:**

3 **(1) Confirm that the minor has received a physical examination by a pediatrician**
4 **chosen by the minor's parent or legal guardian to eliminate the possibility that the minor's**
5 **current condition is the result of an adverse or untreated physical condition;**

6 **(2) Confirm that any adverse or untreated physical condition detected by the**
7 **physical examination conducted pursuant to subdivision (1) of this subsection has been**
8 **treated and the minor has subsequently been reexamined;**

9 **(3) Fully explain to the minor's parent or legal guardian the nature of any and all**
10 **medications recommended for the minor along with possible side effects; and**

11 **(4) Permit a parent to decide, after consulting with a licensed mental health care**
12 **professional, on whether to administer psychotropic medication to the parent's child. The**
13 **refusal of such psychotropic medication by a parent shall not, of itself, constitute grounds**
14 **for the division of family services to seek or a court to order that such child be placed in**
15 **the custody of the state, unless such refusal causes the child to be a victim of abuse or**
16 **neglect, as defined in section 210.110, RSMo.**

17 **2. Any licensed mental health care professional who prescribes a psychotropic**
18 **medication for a minor shall provide a list of all medications the minor is currently taking**

19 with each prescription submitted for filling. An extra copy of the prescription and the list
20 shall be provided to the department of mental health and the parent or legal guardian.

21 3. The department of mental health shall track the number and kind of
22 psychotropic medications prescribed for minors in this state to ensure that reliable figures
23 are available on an ongoing basis for the general assembly and other state agencies.

24 4. As used in this section, the following terms mean:

25 (1) "Legal guardian" includes the state when the custody of a minor has been
26 vested in the state; except that, the state shall not authorize a psychotropic medication to
27 be prescribed for or given to a minor unless:

28 (a) Warranted by an emergency situation documented in the minor's medical file;
29 or

30 (b) Prior approval is given by the minor's guardian ad litem or a court of law;

31 (2) "Minor", a person less than eighteen years of age who:

32 (a) Is not married; and

33 (b) Has not been declared emancipated by a court of law;

34 (3) "Physical examination" includes a check for allergies, thyroid function,
35 endocrine function, nutritional problems, common medication sensitivities and possible
36 adverse reactions to environmental factors;

37 (4) "Psychotropic medication" includes:

38 (a) Anticonvulsants, including but not limited to carbamazepine, divalproex
39 sodium, and other similar substances as defined by rule of the department of mental
40 health;

41 (b) Antidepressants, including but not limited to doxepin, lithium, fluoxetine,
42 fluvoxamine, paroxetine, venlafaxine, nefazodone, clomipramine, bupropion, amitriptyline,
43 protriptyline, imipramine, and other similar substances as defined by rule of the
44 department of mental health;

45 (c) All stimulant medications, including but not limited to methylphenidate,
46 clonazepam, alprazolam, dextroamphetamine, pemoline, and other similar substances as
47 defined by rule of the department of mental health; and

48 (d) All neuroleptics, including but not limited to chlorpromazine, trifluoperazine,
49 thioridazine, perphenazine, prochlorperazine, fluphenazine, thiothixene, haloperidol,
50 loxapine, clozapine, risperidone, and other similar substances as defined by rule of the
51 department of mental health.

52 5. Any licensed health care professional who violates the provisions of this section
53 is guilty of the unlawful practice of medicine.