

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 827

94TH GENERAL ASSEMBLY

Reported from the Special Committee on Student Achievement February 28, 2007 with recommendation that House Committee Substitute for House Bill No. 827 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 6, 2007 with recommendation that House Committee Substitute for House Bill No. 827 Do Pass.

Taken up for Perfection April 2, 2007. House Committee Substitute for House Bill No. 827 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

1986L.03P

AN ACT

To amend chapter 167, RSMo, by adding thereto one new section relating to educational needs of children in licensed residential care facilities.

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

Section A. Chapter 167, RSMo, is amended by adding thereto one new section, to be
2 known as section 167.128, to read as follows:

3 **167.128. 1. The educational needs of each child under the jurisdiction of the**
4 **juvenile court or family court under subdivisions (1), (2), or (5) of subsection 1 of section**
5 **211.031, RSMo, shall be considered as part of the function of the child's family support**
6 **team pursuant to policy of the department of social services. Such needs shall include, but**
7 **not be limited to, the assumption that regular full school days of education are warranted.**
8 **For the purposes of this section, "full school day" shall mean six hours in which the child**
9 **is under the guidance and direction of teachers in the education process. The local school**
10 **district shall be invited to have representation on the child's family support team.**

2. **Nothing in this section shall be construed to infringe upon the rights or due**
3 **process provisions of the federal Individuals with Disabilities Education Act. Nothing in**

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.

11 **this section shall be construed to impede the ability of the family support team or the**
12 **facility staff from making a referral for special education services, if appropriate, when a**
13 **child is placed in a facility described in this section without an individualized education**
14 **program or without a pending referral for such services. If a child is referred for such**
15 **services, the provisions of the Individuals with Disabilities Education Act shall apply and**
16 **control while the referral is pending and through the evaluation process, including**
17 **provisions for educational decision-makers and educational surrogates. Nothing in this**
18 **section shall be construed to deny any child domiciled in Missouri appropriate and**
19 **necessary free public education services.**

20 **3. When the department of social services by contract places a child for treatment**
21 **in a licensed residential care facility setting for children as defined in section 210.481,**
22 **RSMo, such facility shall be responsible for the educational needs of the child if the child**
23 **at the time of placement does not have an individualized education program or a pending**
24 **referral for special education services under sections 162.670 to 162.999, RSMo.**

25 **(1) Such facilities operating an on-site school for which they hire their own**
26 **education staff shall:**

27 **(a) Provide, on site at such facility, a full school day of education for each child**
28 **placed in such facility by the department of social services unless the child's plan of**
29 **treatment and care supports his or her ability to attend public school; and**

30 **(b) Be reimbursed by the local school district for the full cost of education services**
31 **provided to children placed in their care by the department of social services when the**
32 **facility provides education services. The local school district shall be compensated under**
33 **section 167.126, RSMo, for such education services.**

34

35 **No child placed in the facilities for treatment described in this subdivision shall be**
36 **considered by the local school district as homebound for purposes of education unless the**
37 **family support team under subsection 1 of this section has approved homebound**
38 **instruction. A full school day of education shall be provided unless fewer hours of**
39 **instruction per day are approved by the family support team under subsection 1 of this**
40 **section. Nothing in this subdivision shall create an obligation for a licensed residential care**
41 **facility to have on-site classrooms, to operate an on-site school, or to hire its own education**
42 **staff.**

43 **(2) When such facilities have on-site classrooms but do not hire their own education**
44 **staff, the local school district:**

45 (a) Shall provide, on site at such facility, a full school day of education for each
46 child placed in such facility for care by the department of social services unless the child's
47 plan of treatment and care supports his or her ability to attend public school;

48 (b) Shall be compensated under section 167.126 for such education services; and

49 (c) May consider such education services as homebound instruction but shall
50 provide each homebound child with a full school day of education unless fewer hours of
51 instruction per day are approved by the family support team under subsection 1 of this
52 section.

53

54 Nothing in this subdivision shall create an obligation for a licensed residential care facility
55 to have on-site classrooms, to operate an on-site school, or to hire its own education staff.

56 (3) When such facilities do not operate an on-site school or have on-site classrooms,
57 the local school district shall:

58 (a) Provide a full school day of education for each child placed in such facility for
59 care by the department of social services; and

60 (b) Be compensated for such education services under section 167.126.

61

62 If the child's behavior or plan of treatment and care does not support the child's being
63 educated in a regular education class, education services shall be provided in an alternative
64 setting approved by the family support team under subsection 1 of this section. A full
65 school day of education shall be provided unless fewer hours of instruction per day are
66 approved by the family support team under subsection 1 of this section. Nothing in this
67 subdivision shall create an obligation for a licensed residential care facility to have on-site
68 classrooms, to operate an on-site school, or to hire its own education staff.

69 4. Notwithstanding any other provision of law, a child placed for treatment by the
70 department of social services in a licensed residential care facility setting for children as
71 defined in section 210.481, RSMo, who does not have an individualized education program
72 for special education services or a pending referral for such services under sections 162.670
73 to 162.999, RSMo, whose plan of treatment and care supports his or her ability to attend
74 public school but who is then suspended or otherwise demonstrates school failure based
75 on behavior or academic performance shall then be provided a full school day of education
76 according to subsection 3 of this section.

77 5. Nothing in this section shall prevent a licensed residential care facility setting for
78 children as defined in section 210.481, RSMo, from contracting with school districts for
79 education services. Nothing in this section shall prevent a school district from contracting

80 with a licensed residential care facility setting for children as defined in section 210.481,
81 RSMo, for education services.

82 **6. (1) Any residential treatment facility that expects the local public school district**
83 **to provide educational services for students of the treatment facility shall work with the**
84 **district and develop an educational plan that describes in general how full-day educational**
85 **services will be provided to school-aged residents of the treatment facility under a variety**
86 **of possible circumstances. The educational plan shall be developed jointly by the**
87 **appropriate staff of both the treatment facility and the public school district, and the plan**
88 **shall be signed annually by the administration of both parties verifying their support for**
89 **the plan.**

90 **(2) It is the intent that the educational plan follow the provisions of this section, but**
91 **treatment facilities and school districts may develop provisions for educational services not**
92 **included in this section if both parties agree on the provisions and if the provisions offer**
93 **a full-day educational program for the students involved.**

94 **(3) It is understood as a condition of the plan that both the treatment facility and**
95 **school district shall be fully reimbursed, as allowed by law in accordance with the**
96 **availability of funds, for their portions of the cost of providing educational services**
97 **through such sources as basic state aid, local district bill-back, and excess cost**
98 **reimbursement, as well as other possible sources.**

99 **(4) Each treatment facility and school district shall furnish a signed copy of their**
100 **educational plan to the department of elementary and secondary education and to the**
101 **department of social services no later than September 15 of each year.**

✓