

SECOND REGULAR SESSION

HOUSE BILL NO. 1366

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BASYE.

4634H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 168.133 and 304.060, RSMo, and to enact in lieu thereof two new sections relating to transportation of school children.

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

Section A. Sections 168.133 and 304.060, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 168.133 and 304.060, to read as follows:

168.133. 1. The school district 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, and nurses. The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result of the criminal background check. For bus drivers, the school district shall be responsible for conducting the criminal background check on drivers employed by the school district. For drivers employed by a pupil transportation company, **a municipality, or any other entity** under contract with the school district, the criminal background check shall be conducted pursuant to section 43.540 and conform to the requirements established in the National Child Protection Act of 1993, as amended by the Volunteers for Children Act. Personnel who have successfully undergone a criminal background check and a check of the family care safety registry as part of the professional license application process under section 168.021 and who have received clearance on the checks within one prior year of employment shall be considered to have completed the background check requirement. A criminal background check under this

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.

17 section shall include a search of any information publicly available in an electronic format
18 through a public index or single case display.

19 2. In order to facilitate the criminal history background check, the applicant shall submit
20 a set of fingerprints collected pursuant to standards determined by the Missouri highway patrol.
21 The fingerprints shall be used by the highway patrol to search the criminal history repository and
22 shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal
23 history files.

24 3. The applicant shall pay the fee for the state criminal history record information
25 pursuant to section 43.530 and sections 210.900 to 210.936 and pay the appropriate fee
26 determined by the Federal Bureau of Investigation for the federal criminal history record when
27 he or she applies for a position authorized to have contact with pupils pursuant to this section.
28 The department shall distribute the fees collected for the state and federal criminal histories to
29 the Missouri highway patrol.

30 4. The department of elementary and secondary education shall facilitate an annual check
31 of employed persons holding current active certificates under section 168.021 against criminal
32 history records in the central repository under section 43.530, the sexual offender registry under
33 sections 589.400 to ~~589.475~~ **589.426**, and child abuse central registry under sections 210.109
34 to 210.183. The department of elementary and secondary education shall facilitate procedures
35 for school districts to submit personnel information annually for persons employed by the school
36 districts who do not hold a current valid certificate who are required by subsection 1 of this
37 section to undergo a criminal background check, sexual offender registry check, and child abuse
38 central registry check. The Missouri state highway patrol shall provide ongoing electronic
39 updates to criminal history background checks of those persons previously submitted, both those
40 who have an active certificate and those who do not have an active certificate, by the department
41 of elementary and secondary education. This shall fulfill the annual check against the criminal
42 history records in the central repository under section 43.530.

43 5. The school district may adopt a policy to provide for reimbursement of expenses
44 incurred by an employee for state and federal criminal history information pursuant to section
45 43.530.

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

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

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

60 9. A criminal background check and fingerprint collection conducted under subsections
61 1 and 2 of this section shall be valid for at least a period of one year and transferrable from one
62 school district to another district. A school district may, in its discretion, conduct a new criminal
63 background check and fingerprint collection under subsections 1 and 2 for a newly hired
64 employee at the district's expense. A teacher's change in type of certification shall have no effect
65 on the transferability or validity of such records.

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

68 11. The state board of education may promulgate rules for criminal history background
69 checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in
70 section 536.010, that is created under the authority delegated in this section shall become
71 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
72 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
73 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
74 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
75 rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and
76 void.

304.060. 1. The state board of education shall adopt and enforce regulations not
2 inconsistent with law to cover the design and operation of all school buses used for the
3 transportation of school children when owned and operated by any school district or privately
4 owned and operated under contract with any school district in this state, and such regulations
5 shall by reference be made a part of any such contract with a school district. The state board of
6 education may adopt rules and regulations governing the use of other vehicles owned by a district
7 or operated under contract with any school district in this state and used for the purpose of
8 transporting school children. The operator of such vehicle shall be licensed in accordance with
9 section 302.272, and such vehicle shall transport no more children than the manufacturer
10 suggests as appropriate for such vehicle. The state board of education may also adopt rules and
11 regulations governing the use of authorized common carriers for the transportation of students

12 on field trips or other special trips for educational purposes. Every school district, its officers
13 and employees, and every person employed under contract by a school district shall be subject
14 to such regulations. The state board of education shall cooperate with the state transportation
15 department and the state highway patrol in placing suitable warning signs at intervals on the
16 highways of the state.

17 **2. Notwithstanding the provisions of subsection 1 of this section, any school board**
18 **in the state of Missouri may contract with any municipality for the purpose of transporting**
19 **school children. Municipalities entering into any such contract shall comply with the**
20 **requirements of this section and sections 162.064, 162.065, 168.133, and 307.375.**

21 **3.** Any officer or employee of any school district who violates any of the regulations or
22 fails to include obligation to comply with such regulations in any contract executed by him **or**
23 **her** on behalf of a school district shall be guilty of misconduct and subject to removal from
24 office or employment. Any person operating a school bus under contract with a school district
25 who fails to comply with any such regulations shall be guilty of breach of contract and such
26 contract shall be cancelled after notice and hearing by the responsible officers of such school
27 district.

28 ~~[3-]~~ **4.** Any other provision of the law to the contrary notwithstanding, in any county of
29 the first class with a charter form of government adjoining a city not within a county, school
30 buses may bear the word "special".

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