

FIRST REGULAR SESSION

HOUSE BILL NO. 62

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE UNSICKER.

0074H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 160.261 and 167.117, RSMo, and to enact in lieu thereof two new sections relating to requirements of school officials to report certain acts, with penalty provisions.

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

Section A. Sections 160.261 and 167.117, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 160.261 and 167.117, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. **The district may satisfy this notice requirement by posting a copy of the policy and procedures on the district's website.** All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with

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 the student on a professional basis while acting within the scope of their assigned duties. As
19 used in this section, the phrase "act of school violence" or "violent behavior" means the exertion
20 of physical force by a student with the intent to do serious physical injury as defined in section
21 556.061 to another person while on school property, including a school bus in service on behalf
22 of the district, or while involved in school activities. The policy shall at a minimum require
23 school administrators to report, as soon as reasonably practical, to the appropriate law
24 enforcement agency any of the following crimes, or any act which if committed by an adult
25 would be one of the following crimes:

- 26 (1) First degree murder under section 565.020;
- 27 (2) Second degree murder under section 565.021;
- 28 (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or
29 kidnapping in the first degree under section 565.110;
- 30 (4) First degree assault under section 565.050;
- 31 (5) Rape in the first degree under section 566.030;
- 32 (6) Sodomy in the first degree under section 566.060;
- 33 (7) Burglary in the first degree under section 569.160;
- 34 (8) Burglary in the second degree under section 569.170;
- 35 (9) Robbery in the first degree under section 569.020 as it existed prior to January 1,
36 2017, or robbery in the first degree under section 570.023;
- 37 (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017,
38 or manufacture of a controlled substance under section 579.055;
- 39 (11) Distribution of drugs to a minor under section 195.212 as it existed prior to January
40 1, 2017, or delivery of a controlled substance under section 579.020;
- 41 (12) Arson in the first degree under section 569.040;
- 42 (13) Voluntary manslaughter under section 565.023;
- 43 (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1,
44 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary
45 manslaughter in the second degree under section 565.027;
- 46 (15) Second degree assault under section 565.060 as it existed prior to January 1, 2017,
47 or second degree assault under section 565.052;
- 48 (16) Rape in the second degree under section 566.031;
- 49 (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017, or
50 kidnapping in the second degree under section 565.120;
- 51 (18) Property damage in the first degree under section 569.100;
- 52 (19) The possession of a weapon under chapter 571;

53 (20) Child molestation in the first degree pursuant to section 566.067 as it existed prior
54 to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section
55 566.067, 566.068, or 566.069;

56 (21) Sodomy in the second degree pursuant to section 566.061;

57 (22) Sexual misconduct involving a child pursuant to section 566.083;

58 (23) Sexual abuse in the first degree pursuant to section 566.100; **or**

59 (24) ~~[Harassment under section 565.090 as it existed prior to January 1, 2017, or~~
60 ~~harassment in the first degree under section 565.090; or~~

61 ~~————(25)] Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking~~
62 ~~in the first degree under section 565.225[;]~~

63

64 committed on school property, including but not limited to actions on any school bus in service
65 on behalf of the district or while involved in school activities. The policy shall require that any
66 portion of a student's individualized education program that is related to demonstrated or
67 potentially violent behavior shall be provided to any teacher and other school district employees
68 who are directly responsible for the student's education or who otherwise interact with the
69 student on an educational basis while acting within the scope of their assigned duties. The policy
70 shall also contain the consequences of failure to obey standards of conduct set by the local board
71 of education, and the importance of the standards to the maintenance of an atmosphere where
72 orderly learning is possible and encouraged.

73 3. The policy shall provide that any student who is on suspension for any of the offenses
74 listed in subsection 2 of this section or any act of violence or drug-related activity defined by
75 school district policy as a serious violation of school discipline pursuant to subsection 9 of this
76 section shall have as a condition of his or her suspension the requirement that such student is not
77 allowed, while on such suspension, to be within one thousand feet of any school property in the
78 school district where such student attended school or any activity of that district, regardless of
79 whether or not the activity takes place on district property unless:

80 (1) Such student is under the direct supervision of the student's parent, legal guardian,
81 or custodian and the superintendent or the superintendent's designee has authorized the student
82 to be on school property;

83 (2) Such student is under the direct supervision of another adult designated by the
84 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
85 which suspended the student and the superintendent or the superintendent's designee has
86 authorized the student to be on school property;

87 (3) Such student is enrolled in and attending an alternative school that is located within
88 one thousand feet of a public school in the school district where such student attended school;
89 or

90 (4) Such student resides within one thousand feet of any public school in the school
91 district where such student attended school in which case such student may be on the property
92 of his or her residence without direct adult supervision.

93 4. Any student who violates the condition of suspension required pursuant to subsection
94 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of
95 sections 167.161, 167.164, and 167.171. In making this determination consideration shall be
96 given to whether the student poses a threat to the safety of any child or school employee and
97 whether such student's unsupervised presence within one thousand feet of the school is disruptive
98 to the educational process or undermines the effectiveness of the school's disciplinary policy.
99 Removal of any pupil who is a student with a disability is subject to state and federal procedural
100 rights. This section shall not limit a school district's ability to:

101 (1) Prohibit all students who are suspended from being on school property or attending
102 an activity while on suspension;

103 (2) Discipline students for off-campus conduct that negatively affects the educational
104 environment to the extent allowed by law.

105 5. The policy shall provide for a suspension for a period of not less than one year, or
106 expulsion, for a student who is determined to have brought a weapon to school, including but
107 not limited to the school playground or the school parking lot, brought a weapon on a school bus
108 or brought a weapon to a school activity whether on or off of the school property in violation of
109 district policy, except that:

110 (1) The superintendent or, in a school district with no high school, the principal of the
111 school which such child attends may modify such suspension on a case-by-case basis; and

112 (2) This section shall not prevent the school district from providing educational services
113 in an alternative setting to a student suspended under the provisions of this section.

114 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
115 under 18 U.S.C. Section 921 and the following items, as defined in section 571.010: a blackjack,
116 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
117 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
118 knife; except that this section shall not be construed to prohibit a school board from adopting a
119 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
120 educational purposes so long as the firearm is unloaded. The local board of education shall
121 define weapon in the discipline policy. Such definition shall include the weapons defined in this
122 subsection but may also include other weapons.

123 7. All school district personnel responsible for the care and supervision of students are
124 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
125 property of the school, on any school bus going to or returning from school, during school-
126 sponsored activities, or during intermission or recess periods.

127 8. Teachers and other authorized district personnel in public schools responsible for the
128 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable
129 care by the school district, shall not be civilly liable when acting in conformity with the
130 established policies developed by each board, including but not limited to policies of student
131 discipline or when reporting to his or her supervisor or other person as mandated by state law
132 acts of school violence or threatened acts of school violence, within the course and scope of the
133 duties of the teacher, authorized district personnel or volunteer, when such individual is acting
134 in conformity with the established policies developed by the board. Nothing in this section shall
135 be construed to create a new cause of action against such school district, or to relieve the school
136 district from liability for the negligent acts of such persons.

137 9. Each school board shall define in its discipline policy acts of violence and any other
138 acts that constitute a serious violation of that policy. "Acts of violence" as defined by school
139 boards shall include but not be limited to exertion of physical force by a student with the intent
140 to do serious bodily harm to another person while on school property, including a school bus in
141 service on behalf of the district, or while involved in school activities. School districts shall for
142 each student enrolled in the school district compile and maintain records of any serious violation
143 of the district's discipline policy. Such records shall be made available to teachers and other
144 school district employees with a need to know while acting within the scope of their assigned
145 duties, and shall be provided as required in section 167.020 to any school district in which the
146 student subsequently attempts to enroll.

147 10. Spanking, when administered by certificated personnel and in the presence of a
148 witness who is an employee of the school district, or the use of reasonable force to protect
149 persons or property, when administered by personnel of a school district in a reasonable manner
150 in accordance with the local board of education's written policy of discipline, is not abuse within
151 the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the
152 children's division shall not have jurisdiction over or investigate any report of alleged child abuse
153 arising out of or related to the use of reasonable force to protect persons or property when
154 administered by personnel of a school district or any spanking administered in a reasonable
155 manner by any certificated school personnel in the presence of a witness who is an employee of
156 the school district pursuant to a written policy of discipline established by the board of education
157 of the school district, as long as no allegation of sexual misconduct arises from the spanking or
158 use of force.

159 11. If a student reports alleged sexual misconduct on the part of a teacher or other school
160 employee to a person employed in a school facility who is required to report such misconduct
161 to the children's division under section 210.115, such person and the superintendent of the school
162 district shall report the allegation to the children's division as set forth in section 210.115.
163 Reports made to the children's division under this subsection shall be investigated by the division
164 in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated
165 by the school district under subsections 12 to 20 of this section for purposes of determining
166 whether the allegations should or should not be substantiated. The district may investigate the
167 allegations for the purpose of making any decision regarding the employment of the accused
168 employee.

169 12. Upon receipt of any reports of child abuse by the children's division other than
170 reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165
171 which allegedly involve personnel of a school district, the children's division shall notify the
172 superintendent of schools of the district or, if the person named in the alleged incident is the
173 superintendent of schools, the president of the school board of the school district where the
174 alleged incident occurred.

175 13. If, after an initial investigation, the superintendent of schools or the president of the
176 school board finds that the report involves an alleged incident of child abuse other than the
177 administration of a spanking by certificated school personnel or the use of reasonable force to
178 protect persons or property when administered by school personnel pursuant to a written policy
179 of discipline or that the report was made for the sole purpose of harassing a public school
180 employee, the superintendent of schools or the president of the school board shall immediately
181 refer the matter back to the children's division and take no further action. In all matters referred
182 back to the children's division, the division shall treat the report in the same manner as other
183 reports of alleged child abuse received by the division.

184 14. If the report pertains to an alleged incident which arose out of or is related to a
185 spanking administered by certificated personnel or the use of reasonable force to protect persons
186 or property when administered by personnel of a school district pursuant to a written policy of
187 discipline or a report made for the sole purpose of harassing a public school employee, a
188 notification of the reported child abuse shall be sent by the superintendent of schools or the
189 president of the school board to the law enforcement in the county in which the alleged incident
190 occurred.

191 15. The report shall be jointly investigated by the law enforcement officer and the
192 superintendent of schools or, if the subject of the report is the superintendent of schools, by a law
193 enforcement officer and the president of the school board or such president's designee.

194 16. The investigation shall begin no later than forty-eight hours after notification from
195 the children's division is received, and shall consist of, but need not be limited to, interviewing
196 and recording statements of the child and the child's parents or guardian within two working days
197 after the start of the investigation, of the school district personnel allegedly involved in the
198 report, and of any witnesses to the alleged incident.

199 17. The law enforcement officer and the investigating school district personnel shall
200 issue separate reports of their findings and recommendations after the conclusion of the
201 investigation to the school board of the school district within seven days after receiving notice
202 from the children's division.

203 18. The reports shall contain a statement of conclusion as to whether the report of alleged
204 child abuse is substantiated or is unsubstantiated.

205 19. The school board shall consider the separate reports referred to in subsection 17 of
206 this section and shall issue its findings and conclusions and the action to be taken, if any, within
207 seven days after receiving the last of the two reports. The findings and conclusions shall be
208 made in substantially the following form:

209 (1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer
210 and the investigating school board personnel agree that there was not a preponderance of
211 evidence to substantiate that abuse occurred;

212 (2) The report of the alleged child abuse is substantiated. The law enforcement officer
213 and the investigating school district personnel agree that the preponderance of evidence is
214 sufficient to support a finding that the alleged incident of child abuse did occur;

215 (3) The issue involved in the alleged incident of child abuse is unresolved. The law
216 enforcement officer and the investigating school personnel are unable to agree on their findings
217 and conclusions on the alleged incident.

218 20. The findings and conclusions of the school board under subsection 19 of this section
219 shall be sent to the children's division. If the findings and conclusions of the school board are
220 that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated,
221 the case closed, and no record shall be entered in the children's division central registry. If the
222 findings and conclusions of the school board are that the report of the alleged child abuse is
223 substantiated, the children's division shall report the incident to the prosecuting attorney of the
224 appropriate county along with the findings and conclusions of the school district and shall
225 include the information in the division's central registry. If the findings and conclusions of the
226 school board are that the issue involved in the alleged incident of child abuse is unresolved, the
227 children's division shall report the incident to the prosecuting attorney of the appropriate county
228 along with the findings and conclusions of the school board, however, the incident and the names
229 of the parties allegedly involved shall not be entered into the central registry of the children's

230 division unless and until the alleged child abuse is substantiated by a court of competent
231 jurisdiction.

232 21. Any superintendent of schools, president of a school board or such person's designee
233 or law enforcement officer who knowingly falsifies any report of any matter pursuant to this
234 section or who knowingly withholds any information relative to any investigation or report
235 pursuant to this section is guilty of a class A misdemeanor.

236 22. In order to ensure the safety of all students, should a student be expelled for bringing
237 a weapon to school, violent behavior, or for an act of school violence, that student shall not, for
238 the purposes of the accreditation process of the Missouri school improvement plan, be
239 considered a dropout or be included in the calculation of that district's educational persistence
240 ratio.

167.117. 1. ~~[In any instance when any person is believed to have committed an act
2 which if committed by an adult would be assault in the first, second or third degree, sexual
3 assault, or deviate sexual assault against a pupil or school employee, while on school property,
4 including a school bus in service on behalf of the district, or while involved in school activities,
5 the principal shall immediately report such incident to the appropriate local law enforcement
6 agency and to the superintendent, except in any instance when any person is believed to have
7 committed an act which if committed by an adult would be assault in the third degree and a
8 written agreement as to the procedure for the reporting of such incidents of third degree assault
9 has been executed between the superintendent of the school district and the appropriate local law
10 enforcement agency, the principal shall report such incident to the appropriate local law
11 enforcement agency in accordance with such agreement.] For purposes of this section, "on
12 school premises" means on any school property including, but not limited to, a school
13 playground or school parking lot; on any school bus in service on behalf of the school
14 district; or while involved in school activities regardless of whether the activity is on or off
15 school property.~~

16 2. In any instance when a pupil is discovered to have on or about such pupil's person, or
17 among such pupil's possessions, or placed elsewhere on ~~[the]~~ school premises~~[-including but not
18 limited to the school playground or the school parking lot, on a school bus or at a school activity
19 whether on or off of school property]~~ any controlled substance as defined in section 195.010 or
20 any weapon as defined in subsection 6 of section 160.261 in violation of school policy, the
21 principal shall ~~[immediately]~~ **as soon as reasonably practical** report such incident to the
22 appropriate local law enforcement agency and to the superintendent. **In any instance when a
23 school employee becomes aware that a pupil is in possession of a controlled substance or
24 any weapon on school premises, the school employee shall as soon as reasonably practical
25 report such incident to the principal.**

26 3. ~~[In any instance when a teacher becomes aware of an assault as set forth in subsection~~
27 ~~1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth~~
28 ~~in subsection 2 of this section, the teacher shall immediately report such incident to the~~
29 ~~principal.]~~ **In any instance when a pupil is believed to have committed an act listed in**
30 **subdivisions (1) to (24) of subsection 2 of section 160.261 on school premises, the principal**
31 **shall as soon as reasonably practical report such incident to the appropriate law**
32 **enforcement agency; to the superintendent; and, if there is a victim, to the parents or legal**
33 **guardian of each victim. In any instance when a school employee becomes aware that a**
34 **pupil has committed an act listed in subdivisions (1) to (24) of subsection 2 of section**
35 **160.261 on school premises, the school employee shall as soon as reasonably practical**
36 **report such incident to the principal.**

37 4. A school employee, superintendent, or such person's designee who in good faith
38 provides information to law enforcement or juvenile authorities pursuant to this section or
39 section 160.261 **or provides information to law enforcement or juvenile authorities**
40 **regarding an instance in which a pupil is believed to have committed a crime on school**
41 **premises shall not be civilly liable for providing such information.**

42 5. Any school official responsible for reporting pursuant to this section or section
43 160.261 who willfully neglects or refuses to perform this duty shall be subject to the penalty
44 established pursuant to section 162.091.

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