

SECOND REGULAR SESSION

HOUSE BILL NO. 1083

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRASER,
BOUCHER AND RIBACK WILSON (25) (Co-sponsors).

Pre-filed December 3, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2832L.011

AN ACT

To repeal section 160.261, RSMo, and to enact in lieu thereof one new section relating to corporal punishment, with an effective date and penalty provision.

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

Section A. Section 160.261, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.261, to read as follows: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. **No school district shall include any reference to corporal punishment within its discipline policy, and no corporal punishment shall be administered within any school in this state.** 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 teachers and other school district employees with a need to know. For the purposes of this

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly
18 responsible for the student's education or who otherwise interact with the student on a
19 professional basis while acting within the scope of their assigned duties. As used in this section,
20 the phrase "act of school violence" or "violent behavior" means the exertion of physical force by
21 a student with the intent to do serious physical injury as defined in subdivision (6) of section
22 565.002, RSMo, to another person while on school property, including a school bus in service
23 on behalf of the district, or while involved in school activities. The policy shall at a minimum
24 require school administrators to report, as soon as reasonably practical, to the appropriate law
25 enforcement agency any of the following felonies, or any act which if committed by an adult
26 would be one of the following felonies:

- 27 (1) First degree murder under section 565.020, RSMo;
- 28 (2) Second degree murder under section 565.021, RSMo;
- 29 (3) Kidnapping under section 565.110, RSMo;
- 30 (4) First degree assault under section 565.050, RSMo;
- 31 (5) Forcible rape under section 566.030, RSMo;
- 32 (6) Forcible sodomy under section 566.060, RSMo;
- 33 (7) Burglary in the first degree under section 569.160, RSMo;
- 34 (8) Burglary in the second degree under section 569.170, RSMo;
- 35 (9) Robbery in the first degree under section 569.020, RSMo;
- 36 (10) Distribution of drugs under section 195.211, RSMo;
- 37 (11) Distribution of drugs to a minor under section 195.212, RSMo;
- 38 (12) Arson in the first degree under section 569.040, RSMo;
- 39 (13) Voluntary manslaughter under section 565.023, RSMo;
- 40 (14) Involuntary manslaughter under section 565.024, RSMo;
- 41 (15) Second degree assault under section 565.060, RSMo;
- 42 (16) Sexual assault under section 566.040, RSMo;
- 43 (17) Felonious restraint under section 565.120, RSMo;
- 44 (18) Property damage in the first degree under section 569.100, RSMo;
- 45 (19) The possession of a weapon under chapter 571, RSMo;
- 46 (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- 47 (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- 48 (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
- 49 (23) Sexual abuse pursuant to section 566.100, RSMo;

50

51 committed on school property, including but not limited to actions on any school bus in service
52 on behalf of the district or while involved in school activities. The policy shall require that any

53 portion of a student's individualized education program that is related to demonstrated or
54 potentially violent behavior shall be provided to any teacher and other school district employees
55 who are directly responsible for the student's education or who otherwise interact with the
56 student on an educational basis while acting within the scope of their assigned duties. The policy
57 shall also contain the consequences of failure to obey standards of conduct set by the local board
58 of education, and the importance of the standards to the maintenance of an atmosphere where
59 orderly learning is possible and encouraged.

60 3. The policy shall provide for a suspension for a period of not less than one year, or
61 expulsion, for a student who is determined to have brought a weapon to school, including but
62 not limited to the school playground or the school parking lot, brought a weapon on a school bus
63 or brought a weapon to a school activity whether on or off of the school property in violation of
64 district policy, except that:

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

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

69 4. For the purpose of this section, the term "weapon" shall mean a firearm as defined
70 under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack,
71 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
72 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
73 knife; except that this section shall not be construed to prohibit a school board from adopting a
74 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
75 educational purposes so long as the firearm is unloaded. The local board of education shall
76 define weapon in the discipline policy. Such definition shall include the weapons defined in this
77 subsection but may also include other weapons.

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

82 6. Teachers and other authorized district personnel in public schools responsible for the
83 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable
84 care by the school district, shall not be civilly liable when acting in conformity with the
85 established policy of discipline developed by each board under this section, or when reporting
86 to his or her supervisor or other person as mandated by state law, acts of school violence or
87 threatened acts of school violence, within the course and scope of the duties of the teacher,
88 authorized district personnel or volunteer, when such individual is acting in conformity with the

89 established policies developed by the board. Nothing in this section shall be construed to create
90 a new cause of action against such school district, or to relieve the school district from liability
91 for the negligent acts of such persons.

92 7. Each school board shall define in its discipline policy acts of violence and any other
93 acts that constitute a serious violation of that policy. Acts of violence as defined by school
94 boards shall include but not be limited to exertion of physical force by a student with the intent
95 to do serious bodily harm to another person while on school property, including a school bus in
96 service on behalf of the district, or while involved in school activities. School districts shall for
97 each student enrolled in the school district compile and maintain records of any serious violation
98 of the district's discipline policy. Such records shall be made available to teachers and other
99 school district employees with a need to know while acting within the scope of their assigned
100 duties, and shall be provided as required in section 167.020, RSMo, to any school district in
101 which the student subsequently attempts to enroll.

102 8. [Spanking, when administered by certificated personnel of a school district in a
103 reasonable manner in accordance with the local board of education's written policy of discipline,
104 is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to
105 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over
106 or investigate any report of alleged child abuse arising out of or related to any spanking
107 administered in a reasonable manner by any certificated school personnel pursuant to a written
108 policy of discipline established by the board of education of the school district. Upon receipt of
109 any reports of child abuse by the division of family services pursuant to sections 210.110 to
110 210.165, RSMo, which allegedly involves personnel of a school district, the division of family
111 services shall notify the superintendent of schools of the district or, if the person named in the
112 alleged incident is the superintendent of schools, the president of the school board of the school
113 district where the alleged incident occurred. If, after an initial investigation, the superintendent
114 of schools or the president of the school board finds that the report involves an alleged incident
115 of child abuse other than the administration of a spanking by certificated school personnel
116 pursuant to a written policy of discipline or a report made for the sole purpose of harassing a
117 public school employee, the superintendent of schools or the president of the school board shall
118 immediately refer the matter back to the division of family services and take no further action.
119 In all matters referred back to the division of family services, the division of family services shall
120 treat the report in the same manner as other reports of alleged child abuse received by the
121 division. If the report pertains to an alleged incident which arose out of or is related to a
122 spanking administered by certificated personnel of a school district pursuant to a written policy
123 of discipline or a report made for the sole purpose of harassing a public school employee, a
124 notification of the reported child abuse shall be sent by the superintendent of schools or the

125 president of the school board to the juvenile officer of the county in which the alleged incident
126 occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement
127 officer designated by the juvenile officer and the superintendent of schools or, if the subject of
128 the report is the superintendent of schools, by the juvenile officer or a law enforcement officer
129 designated by the juvenile officer and the president of the school board or such president's
130 designee. The investigation shall begin no later than forty-eight hours after notification from the
131 division of family services is received, and shall consist of, but need not be limited to,
132 interviewing and recording statements of the child and the child's parents or guardian within two
133 working days after the start of the investigation, of the school district personnel allegedly
134 involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law
135 enforcement officer designated by the juvenile officer and the investigating school district
136 personnel shall issue separate reports of their findings and recommendations after the conclusion
137 of the investigation to the school board of the school district within seven days after receiving
138 notice from the division of family services. The reports shall contain a statement of conclusion
139 as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school
140 board shall consider the separate reports and shall issue its findings and conclusions and the
141 action to be taken, if any, within seven days after receiving the last of the two reports. The
142 findings and conclusions shall be made in substantially the following form:

143 (1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law
144 enforcement officer designated by the juvenile officer and the investigating school board
145 personnel agree that the evidence shows that no abuse occurred;

146 (2) The report of the alleged child abuse is substantiated. The juvenile officer or a law
147 enforcement officer designated by the juvenile officer and the investigating school district
148 personnel agree that the evidence is sufficient to support a finding that the alleged incident of
149 child abuse did occur;

150 (3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile
151 officer or a law enforcement officer designated by the juvenile officer and the investigating
152 school personnel are unable to agree on their findings and conclusions on the alleged incident.

153 9. The findings and conclusions of the school board shall be sent to the division of
154 family services. If the findings and conclusions of the school board are that the report of the
155 alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and
156 no record shall be entered in the division of family services' central registry. If the findings and
157 conclusions of the school board are that the report of the alleged child abuse is substantiated, the
158 division of family services shall report the incident to the prosecuting attorney of the appropriate
159 county along with the findings and conclusions of the school district and shall include the
160 information in the division's central registry. If the findings and conclusions of the school board

161 are that the issue involved in the alleged incident of child abuse is unresolved, the division of
162 family services shall report the incident to the prosecuting attorney of the appropriate county
163 along with the findings and conclusions of the school board, however, the incident and the names
164 of the parties allegedly involved shall not be entered into the central registry of the division of
165 family services unless and until the alleged child abuse is substantiated by a court of competent
166 jurisdiction.

167 10.] Any superintendent of schools, president of a school board or such person's designee
168 or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or
169 who knowingly withholds any information relative to any investigation or report pursuant to this
170 section is guilty of a class A misdemeanor.

Section B. Section A of this act shall become effective July 1, 2003.