

SECOND REGULAR SESSION

HOUSE BILL NO. 1314

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor), NIEVES, JONES (89), FLOOK,
BAKER (25), STEVENSON, RUESTMAN, COX AND SCHARNHORST (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

3283L.01I

AN ACT

To repeal sections 160.261, 168.021, 168.071, 168.133, 210.135, and 556.037, RSMo, and to enact in lieu thereof eight new sections relating to protecting children from sexual offenders, with penalty provisions.

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

Section A. Sections 160.261, 168.021, 168.071, 168.133, 210.135, and 556.037, RSMo,
2 are repealed and eight new sections enacted in lieu thereof, to be known as sections 160.085,
3 160.261, 162.068, 168.021, 168.071, 168.133, 210.135, and 556.037, to read as follows:

**160.085. This act shall be known as the "Amy Hestir Davis Student Protection
2 Act".**

160.261. 1. The local board of education of each school district shall clearly establish
2 a written policy of discipline, including the district's determination on the use of corporal
3 punishment and the procedures in which punishment will be applied. A written copy of the
4 district's discipline policy and corporal punishment procedures, if applicable, shall be provided
5 to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning
6 of each school year and also made available in the office of the superintendent of such district,
7 during normal business hours, for public inspection. All employees of the district shall annually
8 receive instruction related to the specific contents of the policy of discipline and any
9 interpretations necessary to implement the provisions of the policy in the course of their duties,
10 including but not limited to approved methods of dealing with acts of school violence,

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 disciplining students with disabilities and instruction in the necessity and requirements for
12 confidentiality.

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

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

47 (23) Sexual abuse pursuant to section 566.100, RSMo;
48
49 committed on school property, including but not limited to actions on any school bus in service
50 on behalf of the district or while involved in school activities. The policy shall require that any
51 portion of a student's individualized education program that is related to demonstrated or
52 potentially violent behavior shall be provided to any teacher and other school district employees
53 who are directly responsible for the student's education or who otherwise interact with the
54 student on an educational basis while acting within the scope of their assigned duties. The policy
55 shall also contain the consequences of failure to obey standards of conduct set by the local board
56 of education, and the importance of the standards to the maintenance of an atmosphere where
57 orderly learning is possible and encouraged.

58 3. The policy shall provide that any student who is on suspension for any of the offenses
59 listed in subsection 2 of this section or any act of violence or drug-related activity defined by
60 school district policy as a serious violation of school discipline pursuant to subsection 9 of this
61 section shall have as a condition of his or her suspension the requirement that such student is not
62 allowed, while on such suspension, to be within one thousand feet of any public school in the
63 school district where such student attended school unless:

64 (1) Such student is under the direct supervision of the student's parent, legal guardian,
65 or custodian;

66 (2) Such student is under the direct supervision of another adult designated by the
67 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
68 which suspended the student;

69 (3) Such student is in an alternative school that is located within one thousand feet of a
70 public school in the school district where such student attended school; or

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

74 4. Any student who violates the condition of suspension required pursuant to subsection
75 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of
76 sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration
77 shall be given to whether the student poses a threat to the safety of any child or school employee
78 and whether such student's unsupervised presence within one thousand feet of the school is
79 disruptive to the educational process or undermines the effectiveness of the school's disciplinary
80 policy. Removal of any pupil who is a student with a disability is subject to state and federal
81 procedural rights.

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

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

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

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

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

104 8. Teachers and other authorized district personnel in public schools responsible for the
105 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable
106 care by the school district, shall not be civilly liable when acting in conformity with the
107 established policy of discipline developed by each board under this section, or when reporting
108 to his or her supervisor or other person as mandated by state law acts of school violence or
109 threatened acts of school violence, within the course and scope of the duties of the teacher,
110 authorized district personnel or volunteer, when such individual is acting in conformity with the
111 established policies developed by the board. Nothing in this section shall be construed to create
112 a new cause of action against such school district, or to relieve the school district from liability
113 for the negligent acts of such persons.

114 9. Each school board shall define in its discipline policy acts of violence and any other
115 acts that constitute a serious violation of that policy. Acts of violence as defined by school
116 boards shall include but not be limited to exertion of physical force by a student with the intent
117 to do serious bodily harm to another person while on school property, including a school bus in

118 service on behalf of the district, or while involved in school activities. School districts shall for
119 each student enrolled in the school district compile and maintain records of any serious violation
120 of the district's discipline policy. Such records shall be made available to teachers and other
121 school district employees with a need to know while acting within the scope of their assigned
122 duties, and shall be provided as required in section 167.020, RSMo, to any school district in
123 which the student subsequently attempts to enroll.

124 **10.** Spanking, when administered by certificated personnel of a school district in a
125 reasonable manner in accordance with the local board of education's written policy of discipline,
126 is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to
127 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over
128 or investigate any report of alleged child abuse arising out of or related to any spanking
129 administered in a reasonable manner by any certificated school personnel pursuant to a written
130 policy of discipline established by the board of education of the school district.

131 **11.** Upon receipt of any reports of child abuse by the division of family services pursuant
132 to sections 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district,
133 the division of family services shall notify the superintendent of schools of the district or, if the
134 person named in the alleged incident is the superintendent of schools, the president of the school
135 board of the school district where the alleged incident occurred.

136 **12.** If, after an initial investigation, the superintendent of schools or the president of the
137 school board finds that the report involves an alleged incident of child abuse other than the
138 administration of a spanking by certificated school personnel pursuant to a written policy of
139 discipline or a report made for the sole purpose of harassing a public school employee, the
140 superintendent of schools or the president of the school board shall immediately refer the matter
141 back to the division of family services and take no further action. In all matters referred back to
142 the division of family services, the division of family services shall treat the report in the same
143 manner as other reports of alleged child abuse received by the division.

144 **13.** If the report pertains to an alleged incident which arose out of or is related to a
145 spanking administered by certificated personnel of a school district pursuant to a written policy
146 of discipline or a report made for the sole purpose of harassing a public school employee, a
147 notification of the reported child abuse shall be sent by the superintendent of schools or the
148 president of the school board to the juvenile officer of the county in which the alleged incident
149 occurred.

150 **14.** The report shall be jointly investigated by the juvenile officer or a law enforcement
151 officer designated by the juvenile officer and the superintendent of schools or, if the subject of
152 the report is the superintendent of schools, by the juvenile officer or a law enforcement officer

153 designated by the juvenile officer and the president of the school board or such president's
154 designee.

155 **15.** The investigation shall begin no later than forty-eight hours after notification from
156 the division of family services is received, and shall consist of, but need not be limited to,
157 interviewing and recording statements of the child and the child's parents or guardian within two
158 working days after the start of the investigation, of the school district personnel allegedly
159 involved in the report, and of any witnesses to the alleged incident.

160 **16.** The juvenile officer or a law enforcement officer designated by the juvenile officer
161 and the investigating school district personnel shall issue separate reports of their findings and
162 recommendations after the conclusion of the investigation to the school board of the school
163 district within seven days after receiving notice from the division of family services.

164 **17.** The reports shall contain a statement of conclusion as to whether the report of alleged
165 child abuse is substantiated or is unsubstantiated.

166 **18.** The school board shall consider the separate reports **referred to in subsection 16**
167 **of this section** and shall issue its findings and conclusions and the action to be taken, if any,
168 within seven days after receiving the last of the two reports. The findings and conclusions shall
169 be made in substantially the following form:

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

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

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

180 **[11.] 19.** The findings and conclusions of the school board **under subsection 18 of this**
181 **section** shall be sent to the division of family services. If the findings and conclusions of the
182 school board are that the report of the alleged child abuse is unsubstantiated, the investigation
183 shall be terminated, the case closed, and no record shall be entered in the division of family
184 services' central registry. If the findings and conclusions of the school board are that the report
185 of the alleged child abuse is substantiated, the division of family services shall report the incident
186 to the prosecuting attorney of the appropriate county along with the findings and conclusions of
187 the school district and shall include the information in the division's central registry. **The**
188 **superintendent of the school district shall also report the findings to the department of**

189 **elementary and secondary education.** If the findings and conclusions of the school board are
190 that the issue involved in the alleged incident of child abuse is unresolved, the division of family
191 services shall report the incident to the prosecuting attorney of the appropriate county along with
192 the findings and conclusions of the school board, however, the incident and the names of the
193 parties allegedly involved shall not be entered into the central registry of the division of family
194 services unless and until the alleged child abuse is substantiated by a court of competent
195 jurisdiction.

196 [12.] **20.** Any superintendent of schools, president of a school board or such person's
197 designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this
198 section or who knowingly withholds any information relative to any investigation or report
199 pursuant to this section is guilty of a class A misdemeanor.

200 [13.] **21.** In order to ensure the safety of all students, should a student be expelled for
201 bringing a weapon to school, violent behavior, or for an act of school violence, that student shall
202 not, for the purposes of the accreditation process of the Missouri school improvement plan, be
203 considered a dropout or be included in the calculation of that district's educational persistence
204 ratio.

**162.068. 1. Every school district shall adopt a written policy on information that
2 the district provides about former employees, both certificated and noncertificated, to
3 other potential employers. The policy shall include who is permitted to respond to requests
4 from potential employers and what types of information will be provided. The policy shall
5 include a provision that allows employees to indicate whether they will permit employee
6 evaluation information and reasons for termination to be communicated to potential
7 employers. The policy shall require that notice of this provision be provided to all current
8 employees and to all potential employees who contact the school district regarding the
9 possible employment of a school district employee.**

10 **2. Any school district employee who reports on or discusses employee job
11 performance for the purposes of making employment decisions that affect the safety of
12 students and who does so in conformity with district policy, in good faith, and without
13 malice shall not be subject to an action for civil damages as a result thereof, and no cause
14 of action shall arise against him or her as a result of his or her conduct under this section.
15 The attorney general shall defend such persons in any such action or proceeding.**

168.021. 1. Certificates of license to teach in the public schools of the state shall be
2 granted as follows:

- 3 (1) By the state board, under rules and regulations prescribed by it,
- 4 (a) Upon the basis of college credit;
- 5 (b) Upon the basis of examination;

6 (2) By the state board, under rules and regulations prescribed by the state board with
7 advice from the advisory council established by section 168.015 to any individual who presents
8 to the state board a valid doctoral degree from an accredited institution of higher education
9 accredited by a regional accrediting association such as North Central Association. Such
10 certificate shall be limited to the major area of postgraduate study of the holder, shall be issued
11 only after successful completion of the examination required for graduation pursuant to rules
12 adopted by the state board of education, and shall be restricted to those certificates established
13 pursuant to subdivision (1) of subsection 3 of this section; or

14 (3) By the state board, which shall issue the professional certificate classification in both
15 the general and specialized areas most closely aligned with the current areas of certification
16 approved by the state board, commensurate with the years of teaching experience of the
17 applicant, and based upon the following criteria:

18 (a) Recommendation of a state-approved baccalaureate-level teacher preparation
19 program;

20 (b) Successful attainment of the Missouri qualifying score on the exit assessment for
21 teachers or administrators designated by the state board of education. Applicants who have not
22 successfully achieved a qualifying score on the designated examinations will be issued a
23 two-year nonrenewable provisional certificate; and

24 (c) Upon completion of a background check **as prescribed in section 168.133** and
25 possession of a valid teaching certificate in the state from which the applicant's teacher
26 preparation program was completed.

27 2. All valid teaching certificates issued pursuant to law or state board policies and
28 regulations prior to September 1, 1988, shall be exempt from the professional development
29 requirements of this section and shall continue in effect until they expire, are revoked or
30 suspended, as provided by law. When such certificates are required to be renewed, the state
31 board or its designee shall grant to each holder of such a certificate the certificate most nearly
32 equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II,
33 or continuous professional certificate shall, upon expiration of his or her current certificate, be
34 issued the appropriate level of certificate based upon the classification system established
35 pursuant to subsection 3 of this section.

36 3. Certificates of license to teach in the public schools of the state shall be based upon
37 minimum requirements prescribed by the state board of education **which shall include**
38 **successful completion of a background check as prescribed in section 168.133**. The state
39 board shall provide for the following levels of professional certification: an initial professional
40 certificate and a career continuous professional certificate.

41 (1) The initial professional certificate shall be issued upon completion of requirements
42 established by the state board of education and shall be valid based upon verification of actual
43 teaching within a specified time period established by the state board of education. The state
44 board shall require holders of the four-year initial professional certificate to:

45 (a) Participate in a mentoring program approved and provided by the district for a
46 minimum of two years;

47 (b) Complete thirty contact hours of professional development, which may include hours
48 spent in class in an appropriate college curriculum; and

49 (c) Participate in a beginning teacher assistance program;

50 (2) (a) The career continuous professional certificate shall be issued upon verification
51 of completion of four years of teaching under the initial professional certificate and upon
52 verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of
53 subdivision (1) of this subsection.

54 (b) The career continuous professional certificate shall be continuous based upon
55 verification of actual employment in an educational position as provided for in state board
56 guidelines and completion of fifteen contact hours of professional development per year which
57 may include hours spent in class in an appropriate college curriculum. Should the possessor of
58 a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour
59 professional development requirement, the possessor may, within two years, make up the
60 missing hours. In order to make up for missing hours, the possessor shall first complete the
61 fifteen-hour requirement for the current year and then may count hours in excess of the current
62 year requirement as make-up hours. Should the possessor fail to make up the missing hours
63 within two years, the certificate shall become inactive. In order to reactivate the certificate, the
64 possessor shall complete twenty-four contact hours of professional development which may
65 include hours spent in the classroom in an appropriate college curriculum within the six months
66 prior to or after reactivating his or her certificate. The requirements of this paragraph shall be
67 monitored and verified by the local school district which employs the holder of the career
68 continuous professional certificate.

69 (c) A holder of a career continuous professional certificate shall be exempt from the
70 professional development contact hour requirements of paragraph (b) of this subdivision if such
71 teacher has a local professional development plan in place within such teacher's school district
72 and meets two of the three following criteria:

73 a. Has ten years of teaching experience as defined by the state board of education;

74 b. Possesses a master's degree; or

75 c. Obtains a rigorous national certification as approved by the state board of education.

76 4. Policies and procedures shall be established by which a teacher who was not retained
77 due to a reduction in force may retain the current level of certification. There shall also be
78 established policies and procedures allowing a teacher who has not been employed in an
79 educational position for three years or more to reactivate his or her last level of certification by
80 completing twenty-four contact hours of professional development which may include hours
81 spent in the classroom in an appropriate college curriculum within the six months prior to or after
82 reactivating his or her certificate.

83 5. The state board shall, upon [an appropriate] **completion of a background check as**
84 **prescribed in section 168.133**, issue a professional certificate classification in the areas most
85 closely aligned with an applicant's current areas of certification, commensurate with the years
86 of teaching experience of the applicant, to any person who is hired to teach in a public school in
87 this state and who possesses a valid teaching certificate from another state, provided that the
88 certificate holder shall annually complete the state board's requirements for such level of
89 certification, and shall establish policies by which residents of states other than the state of
90 Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri.
91 Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing
92 of a certificate of license to teach.

93 6. The state board may assess to holders of an initial professional certificate a fee, to be
94 deposited into the excellence in education revolving fund established pursuant to section
95 160.268, RSMo, for the issuance of the career continuous professional certificate. However,
96 such fee shall not exceed the combined costs of issuance and any criminal background check
97 required as a condition of issuance.

98 7. Any member of the public school retirement system of Missouri who entered covered
99 employment with ten or more years of educational experience in another state or states and held
100 a certificate issued by another state and subsequently worked in a school district covered by the
101 public school retirement system of Missouri for ten or more years who later became certificated
102 in Missouri shall have that certificate dated back to his or her original date of employment in a
103 Missouri public school.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or
2 may, upon hearing, discipline the holder of a certificate of license to teach for the following
3 causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been found guilty
5 of a felony or crime involving moral turpitude under the laws of this state, any other state, of the
6 United States, or any other country, whether or not sentence is imposed;

7 (2) The certification was obtained through use of fraud, deception, misrepresentation or
8 bribery;

9 (3) There is evidence of incompetence, immorality, or neglect of duty by the certificate
10 holder;

11 (4) A certificate holder has been subject to disciplinary action relating to certification
12 issued by another state, territory, federal agency, or country upon grounds for which discipline
13 is authorized in this section; or

14 (5) If charges are filed by the local board of education, based upon the annulling of a
15 written contract with the local board of education, for reasons other than election to the general
16 assembly, without the consent of the majority of the members of the board that is a party to the
17 contract.

18 2. A public school district may file charges seeking the discipline of a holder of a
19 certificate of license to teach based upon any cause or combination of causes outlined in
20 subsection 1 of this section, including annulment of a written contract. Charges shall be in
21 writing, specify the basis for the charges, and be signed by the chief administrative officer of the
22 district, or by the president of the board of education as authorized by a majority of the board of
23 education. The board of education may also petition the office of the attorney general to file
24 charges on behalf of the school district for any cause other than annulment of contract, with
25 acceptance of the petition at the discretion of the attorney general.

26 3. The department of elementary and secondary education may file charges seeking the
27 discipline of a holder of a certificate of license to teach based upon any cause or combination of
28 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall
29 be in writing, specify the basis for the charges, and be signed by legal counsel representing the
30 department of elementary and secondary education.

31 4. If the underlying conduct or actions which are the basis for charges filed pursuant to
32 this section are also the subject of a pending criminal charge against the person holding such
33 certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel
34 under the fifth amendment of the Constitution of the United States. Based upon such a request,
35 no hearing shall be held until after a trial has been completed on this criminal charge.

36 5. The certificate holder shall be given not less than thirty days' notice of any hearing
37 held pursuant to this section.

38 6. Other provisions of this section notwithstanding, the certificate of license to teach
39 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate
40 holder or applicant has pleaded guilty to or been found guilty of any of the following offenses
41 established pursuant to Missouri law or offenses of a similar nature established under the laws
42 of any other state or of the United States, or any other country, whether or not the sentence is
43 imposed:

44 (1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first
45 degree;

46 (2) Any of the following sexual offenses: rape; statutory rape in the first degree;
47 statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first
48 degree; statutory sodomy in the second degree; child molestation in the first degree; child
49 molestation in the second degree; deviate sexual assault; sexual misconduct involving a child;
50 sexual misconduct in the first degree; **sexual misconduct in the second degree; sexual**
51 **misconduct in the third degree;** sexual abuse; **sexual contact with a student while on public**
52 **school property;** enticement of a child; or attempting to entice a child;

53 (3) Any of the following offenses against the family and related offenses: incest;
54 abandonment of child in the first degree; abandonment of child in the second degree;
55 endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual
56 performance; promoting sexual performance by a child; or trafficking in children; and

57 (4) Any of the following offenses involving child pornography and related offenses:
58 promoting obscenity in the first degree; promoting obscenity in the second degree when the
59 penalty is enhanced to a class D felony; promoting child pornography in the first degree;
60 promoting child pornography in the second degree; possession of child pornography in the first
61 degree; possession of child pornography in the second degree; furnishing child pornography to
62 a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene
63 material.

64 7. When a certificate holder pleads guilty or is found guilty of any offense that would
65 authorize the state board of education to seek discipline against that holder's certificate of license
66 to teach, the local board of education or the department of elementary and secondary education
67 shall immediately provide written notice to the state board of education and the attorney general
68 regarding the plea of guilty or finding of guilty.

69 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this
70 section may appeal such revocation to the state board of education. Notice of this appeal must
71 be received by the commissioner of education within ninety days of notice of revocation pursuant
72 to this subsection. Failure of the certificate holder to notify the commissioner of the intent to
73 appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent
74 to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner
75 of education, with the final decision made by the state board of education, based upon the record
76 of that hearing. The certificate holder shall be given not less than thirty days' notice of the
77 hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

78 9. In the case of any certificate holder who has surrendered or failed to renew his or her
79 certificate of license to teach, the state board of education may refuse to issue or renew, or may
80 suspend or revoke, such certificate for any of the reasons contained in this section.

81 10. In those cases where the charges filed pursuant to this section are based upon an
82 allegation of misconduct involving a minor child, the hearing officer may accept into the record
83 the sworn testimony of the minor child relating to the misconduct received in any court or
84 administrative hearing.

85 11. Hearings, appeals or other matters involving certificate holders, licensees or
86 applicants pursuant to this section may be informally resolved by consent agreement or agreed
87 settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated
88 by the state board of education.

89 12. The final decision of the state board of education is subject to judicial review
90 pursuant to sections 536.100 to 536.140, RSMo.

91 13. A certificate of license to teach to an individual who has been convicted of a felony
92 or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only
93 upon motion of the state board of education adopted by a unanimous affirmative vote of those
94 members present and voting.

168.133. 1. The school district shall ensure that a criminal background check **including**
2 **a check of the sexual offender registry and the child abuse central registry** is conducted on
3 any person employed after January 1, 2005, authorized to have contact with pupils and prior to
4 the individual having contact with any pupil. Such persons include, but are not limited to,
5 administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and
6 nurses. The school district shall also ensure that a criminal background check is conducted for
7 school bus drivers. The district may allow such drivers to operate buses pending the result of
8 the criminal background check. For bus drivers, the background check shall be conducted on
9 drivers employed by the school district or employed by a pupil transportation company under
10 contract with the school district. **Personnel who have successfully undergone a criminal**
11 **background check and a check of the sexual offender registry and the child abuse central**
12 **registry as part of the professional license application process under section 168.021 within**
13 **one year before their date of hiring shall be considered to have completed the background**
14 **check requirement.**

15 2. In order to facilitate the criminal history background check [on any person employed
16 after January 1, 2005], the applicant shall submit two sets of fingerprints collected pursuant to
17 standards determined by the Missouri highway patrol. One set of fingerprints shall be used by
18 the highway patrol to search the criminal history repository [and the family care safety registry

19 pursuant to sections 210.900 to 210.936, RSMo,] and the second set shall be forwarded to the
20 Federal Bureau of Investigation for searching the federal criminal history files.

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

27 4. **The highway patrol, the department of health and senior services, the**
28 **department of social services, and the department of elementary and secondary education**
29 **shall develop procedures that permit an annual check of employed persons holding current**
30 **active certificates under section 168.021 against criminal history records in the central**
31 **repository under section 43.530, RSMo, the sexual offender registry, and child abuse**
32 **central registry under sections 210.900 to 210.936, RSMo. The department of elementary**
33 **and secondary education shall facilitate the development of procedures for school districts**
34 **to submit personnel information annually for persons employed by the school districts who**
35 **do not hold a current valid certificate who are required by subsection 1 of this section to**
36 **undergo a criminal background check, sexual offender registry check, and child abuse**
37 **central registry check.**

38 5. The school district may adopt a policy to provide for reimbursement of expenses
39 incurred by an employee for state and federal criminal history information pursuant to section
40 43.530, RSMo.

41 [5.] 6. If, as a result of the criminal history background check mandated by this section,
42 it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty
43 or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a
44 similar crime or offense committed in another state, the United States, or any other country,
45 regardless of imposition of sentence, such information shall be reported to the department of
46 elementary and secondary education.

47 [6.] 7. Any school official making a report to the department of elementary and
48 secondary education in conformity with this section shall not be subject to civil liability for such
49 action.

50 [7.] 8. For any teacher who is employed by a school district on a substitute or part-time
51 basis within one year of such teacher's retirement from a Missouri school, the state of Missouri
52 shall not require such teacher to be subject to any additional background checks prior to having
53 contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise

54 restricting a school district from requiring additional background checks for such teachers
55 employed by the school district.

56 [8.] **9.** Nothing in this section shall be construed to alter the standards for suspension,
57 denial, or revocation of a certificate issued pursuant to this chapter.

58 [9.] **10.** The state board of education may promulgate rules for criminal history
59 background checks made pursuant to this section. Any rule or portion of a rule, as that term is
60 defined in section 536.010, RSMo, that is created under the authority delegated in this section
61 shall become effective only if it complies with and is subject to all of the provisions of chapter
62 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
63 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
64 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
65 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
66 or adopted after January 1, 2005, shall be invalid and void.

210.135. **1.** Any person, official, or institution complying with the provisions of sections
2 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of
3 radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color
4 photographs and making of radiologic examinations, or the removal or retaining a child pursuant
5 to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement
6 agency, juvenile office, court, or child-protective service agency of this or any other state, in any
7 of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse,
8 neglect or assault, pursuant to sections 568.045 to 568.060, RSMo, shall have immunity from
9 any liability, civil or criminal, that otherwise might result by reason of such actions. Provided,
10 however, any person, official or institution intentionally filing a false report, acting in bad faith,
11 or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person,
12 official, or institution shall have the same immunity with respect to participation in any judicial
13 proceeding resulting from the report.

14 **2. Any person, who is not a school district employee, who makes a report to a school**
15 **administrator of child abuse by a school employee shall have immunity from any liability,**
16 **civil or criminal, that otherwise might result because of such report. Provided, however,**
17 **that any such person who makes a false report, knowing that the report is false, or who**
18 **acts in bad faith or with ill intent in making such report shall not have immunity from any**
19 **liability, civil or criminal. Any such person shall have the same immunity with respect to**
20 **participation in any judicial proceeding resulting from the report.**

556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful
2 sexual offenses involving a person eighteen years of age or under [must] **may** be commenced
3 [within twenty years after the victim reaches the age of eighteen unless the prosecutions are for

4 forcible rape, attempted forcible rape, forcible sodomy, kidnapping, or attempted forcible
5 sodomy in which case such prosecutions may be commenced] at any time.

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