SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1314

94TH GENERAL ASSEMBLY

Reported from the Committee on Elementary and Secondary Education February 13, 2008 with recommendation that House Committee Substitute for House Bill No. 1314 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules February 21, 2008 with recommendation that House Committee Substitute for House Bill No. 1314 Do Pass, with no time limit for debate on Perfection.

Taken up for Perfection February 26, 2008. House Committee Substitute for House Bill No. 1314 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

3283L.03P

AN ACT

To repeal sections 160.261, 168.021, 168.071, 168.133, 210.135, 210.915, 210.922, and 556.037, RSMo, and to enact in lieu thereof twelve 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Section A. Sections 160.261, 168.021, 168.071, 168.133, 210.135, 210.915, 210.922, and 556.037, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 160.085, 160.261, 160.262, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.915, 210.922, and 556.037, to read as follows:

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

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

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.

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

(1) First degree murder under section 565.020, RSMo;
(2) Second degree murder under section 565.021, RSMo;
(3) Kidnapping under section 565.110, RSMo;
(4) First degree assault under section 565.050, RSMo;
(5) Forcible rape under section 566.030, RSMo;
(6) Forcible sodomy under section 566.060, RSMo;
(7) Burglary in the first degree under section 569.160, RSMo;
(8) Burglary in the second degree under section 569.170, RSMo;
(9) Robbery in the first degree under section 569.020, RSMo;
(10) Distribution of drugs under section 195.211, RSMo;
(11) Distribution of drugs to a minor under section 195.212, RSMo;
(12) Arson in the first degree under section 569.040, RSMo;
(13) Voluntary manslaughter under section 565.023, RSMo;
(14) Involuntary manslaughter under section 565.024, RSMo;
(15) Second degree assault under section 565.060, RSMo;
(16) Sexual assault under section 566.040, RSMo;
(17) Felonious restraint under section 565.120, RSMo;

(18) Property damage in the first degree under section 569.100, RSMo;
(19) The possession of a weapon under chapter 571, RSMo;
(20) Child molestation in the first degree pursuant to section 566.067, RSMo;
(21) Deviate sexual assault pursuant to section 566.070, RSMo;
(22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
(23) Sexual abuse pursuant to section 566.100, RSMo;

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

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

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

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

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

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

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee

and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights.

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

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

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

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

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

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

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

10. Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the **children's** division **[**of family services**]** shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any certificated school personnel pursuant to a written policy of discipline established by the board of education of the school district. **If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a mandated reporter as defined in section 210.115, RSMo, the superintendent of the school district shall forward the allegation to the children's division within twenty-four hours of receiving the information.**

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

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

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

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

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

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

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

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

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that **[**the evidence shows that no**] there was not a preponderance of evidence to substantiate that** abuse occurred;

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

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating

school personnel are unable to agree on their findings and conclusions on the alleged incident.

[11.**] 19.** The findings and conclusions of the school board **under subsection 18 of this section** shall be sent to the **children's** division **[**of family services**]**. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the **children's** division **[**of family services'**]** central registry **unless the allegations contain an element of sexual misconduct, in which case the record of the allegations and the report of it being unsubstantiated shall be retained in a closed record by the children's division under paragraph (c) of subdivision (2) of subsection 1 of section 210.152, RSMo**. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the **children's** division **[**of family services**]** shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the **children's** division **[**of family services**]** shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board**[**,**];** however, the incident and the names of the parties allegedly involved shall not be entered into the **division's** central registry **[**of the division of family services**]** unless and until the alleged child abuse is substantiated by a court of competent jurisdiction **except if the allegations contain an element of sexual misconduct, in which case the record of the allegations and the report of it being unresolved shall be retained in a closed record by the children's division under paragraph (c) of subdivision (2) of subsection 1 of section 210.152, RSMo**.

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

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

160.262. 1. The office of the child advocate as created in section 37.705, RSMo, shall be authorized to coordinate mediation efforts between school districts and students when requested by either party, as part of its duties under subdivision (8) of subsection 2 of section 37.710, RSMo, when allegations of child abuse arise in a school setting. The

office of the child advocate shall maintain a list of individuals who are qualified mediators. The child care advocate shall be available as one of the mediators on the list from which parents can choose.

2. Mediation procedures shall meet the following requirements:

(1) The mediation process shall not be used to deny or delay any other complaint process available to the parties; and

(2) The mediation process shall be conducted by a qualified and impartial mediator trained in effective mediation techniques who is not affiliated with schools or school professional associations and who is available as a public service.

3. No student or parent of a student shall be required to enter into mediation, but a school district shall be required to participate in mediation if a parent asks for it on behalf of a student who has reported sexual abuse. A goal of protecting a student from unwarranted attention shall be a priority, up to and including attendance by contract at a different school or school district. Participation by a student in student activities at such school or in such school district under this section shall be on the basis of a resident student of the school or district.

4. Each session in the mediation process shall be scheduled in a timely manner and be held in a location that is convenient to the parties in dispute.

5. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, or civil proceeding of any federal or state court.

6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and:

(1) States that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, or civil proceeding of any federal or state court; and

(2) Is signed by a representative of each party who has authority to bind the party.

162.068. 1. Beginning July 1, 2009, for any employee who is required under section 168.133, RSMo, to undergo a background check and register with the family care safety registry, a school district shall include in the employment application a waiver that, when signed by the applicant, will permit the school district to access any closed records relating to the applicant in the child abuse registry. The department of social services shall develop the waiver form and cooperate with the department of elementary and secondary education to ensure its distribution for use by school districts. No applicant for employment shall be required to sign the waiver to be considered for employment.

2. By July 1, 2009, every school district shall adopt a written policy on information that the district provides about former employees, both certificated and noncertificated, to other potential employers. The policy shall include who is permitted to respond to requests for information from potential employers, and the policy shall include a provision that allows employees to indicate whether they will permit employee evaluation information and reasons for termination to be communicated to potential employers. The policy shall require that notice of this provision be provided to all current employees and to all potential employers who contact the school district regarding the possible employment of a school district employee.

3. Any school district employee who reports on or discusses employee job performance for the purposes of making employment decisions that affect the safety and overall well-being of students and who does so in conformity with district policy, in good faith, and without malice shall not be subject to an action for civil damages as a result thereof, and no cause of action shall arise against him or her as a result of his or her conduct under this section. The attorney general shall defend such persons in any such action or proceeding, except that if the attorney general represents the school district or the department of elementary and secondary education in a pending licensing matter under section 168.071, RSMo, the attorney general shall not represent the school district employee.

4. If a district that has employed any employee whose job involves contact with children receives allegations of sexual misconduct concerning the employee and dismisses the employee or allows the employee to resign in lieu of being fired and fails to disclose the allegations of sexual misconduct when furnishing a reference for the former employee, the district shall be directly liable for damages to any student of a subsequent employing district who is found by a court of competent jurisdiction to be a victim of the former employee's sexual misconduct, and the district shall bear third-party liability to the employing district for a failure to disclose the information.

162.069. 1. Every school district shall, by January 1, 2009, promulgate a written policy concerning teacher-student communication and employee-student communication. Such policy shall contain at least the following elements:

(1) Appropriate oral and nonverbal personal communication, which may be combined with or included in any policy on sexual harassment; and

(2) Appropriate use of electronic media such as text messaging and Internet sites for both instructional and personal purposes, with an element concerning use of social networking sites no less stringent than the provisions of subsections 2, 3, and 4 of this section.

2. As used in this section, the following terms shall mean:

(1) "Exclusive access", the information on the web site is available only to the owner (teacher) and user (student) by mutual explicit consent and where third parties have no access to the information on the web site absent an explicit consent agreement with the owner (teacher);

(2) "Former student", any person who was at one time a student at the school at which the teacher is employed and who is eighteen years of age or less and who has not graduated;

(3) "Nonwork-related Internet site", any Internet web site or web pages used by a teacher primarily for personal purposes and not for educational purposes;

(4) "Work-related Internet site", any Internet web site or web pages used by a teacher for educational purposes.

3. No teacher shall establish, maintain, or use a work-related Internet site unless such site is available to school administrators and parents.

4. No teacher shall establish, maintain, or use a nonwork-related Internet site which allows exclusive access with a current or former student.

5. Every school district shall, by July 1, 2009, include in its teacher and employee training, a component that provides up-to-date and reliable information on identifying signs of sexual abuse in children and danger signals of potentially abusive relationships between children and adults. The training shall emphasize the importance of mandatory reporting of abuse under section 210.115, RSMo, and how to establish an atmosphere of trust so that students feel their school has concerned adults with whom they feel comfortable discussing matters related to abuse.

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

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

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

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

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

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

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

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

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

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

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

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

(c) Participate in a beginning teacher assistance program;

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

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

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

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

b. Possesses a master's degree; or

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

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

5. The state board shall, upon **[**an appropriate**] completion of a** background check **as prescribed in section 168.133**, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years

of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree **under section 565.020, RSMo**;

(2) Any of the following sexual offenses: rape **under section 566.030, RSMo**; statutory rape in the first degree **under section 566.032, RSMo**; statutory rape in the second degree **under section 566.034, RSMo**; sexual assault **under section 566.040, RSMo**; forcible sodomy **under section 566.060, RSMo**; statutory sodomy in the first degree **under section 566.062, RSMo**; statutory sodomy in the second degree **under section 566.064, RSMo**; child molestation in the first degree **under section 566.067, RSMo**; child molestation in the second degree **under section 566.068, RSMo**; deviate sexual assault **under section 566.070, RSMo**; sexual misconduct involving a child **under section 566.083, RSMo**; **sexual contact with a student**

while on public school property under section 566.086, RSMo; sexual misconduct in the first degree **under section 566.090, RSMo**; **sexual misconduct in the second degree under section 566.093, RSMo; sexual misconduct in the third degree under section 566.095, RSMo;** sexual abuse **under section 565.100, RSMo**; enticement of a child **under section 566.151, RSMo**; or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest **under section 568.020, RSMo**; abandonment of child in the first degree **under section 568.030, RSMo**; abandonment of child in the second degree **under section 568.032, RSMo**; endangering the welfare of a child in the first degree **under section 568.045, RSMo**; abuse of a child **under section 568.060, RSMo**; child used in a sexual performance **under section 568.080, RSMo**; promoting sexual performance by a child **under section 568.090, RSMo**; or trafficking in children **under section 568.175, RSMo**; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree **under section 573.020, RSMo**; promoting obscenity in the second degree when the penalty is enhanced to a class D felony **under section 573.030, RSMo**; promoting child pornography in the first degree **under section 573.025, RSMo**; promoting child pornography in the second degree **under section 573.035, RSMo**; possession of child pornography **[**in the first degree**] under section 573.037, RSMo**; **[**possession of child pornography in the second degree; furnishing child pornography to a minor;**]** furnishing pornographic materials to minors **under section 573.040, RSMo**; or coercing acceptance of obscene material **under section 573.065, RSMo**.

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

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

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

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

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

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

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

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 background check shall be conducted on drivers employed by the school district or employed by a pupil transportation company under contract with the school district. **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 the past year shall be considered to have completed the background check requirement.**

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository **[**and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo,**]** and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. **In addition to**

the state and federal criminal background check, any employee employed after January 1, 2009, and required by the provisions of subsection 1 of this section to undergo a criminal background check shall be required to register with the family care safety registry under the provisions of sections 210.900 to 210.936, RSMo, and to be cleared through its database.

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

4. **The highway patrol, the department of health and senior services, the department of social services, and the department of elementary and secondary education shall develop procedures that permit an annual check of employed persons holding current active certificates under section 168.021 against criminal history records in the central repository under section 43.530, RSMo, and the family care safety registry under sections 210.900 to 210.936, RSMo. The department of elementary and secondary education shall facilitate the development of procedures for school districts to submit personnel information annually for persons employed by the school districts who do not hold a current valid certificate who are required by subsection 1 of this section to undergo a criminal background check and family care safety registry check. The provisions of this subsection shall become effective January 1, 2012.**

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

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

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

[7.**] 8.** For any teacher who is employed by a school district on a substitute or part-time basis within one year of such teacher's retirement from a Missouri school, the state of Missouri

shall not require such teacher to be subject to any additional background checks prior to having contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise restricting a school district from requiring additional background checks for such teachers employed by the school district.

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

[9.**] 10.** The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed 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 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color photographs and making of radiologic examinations, or the removal or retaining a child pursuant to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement agency, juvenile office, court, or child-protective service agency of this or any other state, in any of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse, neglect or assault, pursuant to sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, any person, official or institution intentionally filing a false report, acting in bad faith, or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person, official, or institution shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

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

210.915. The department of corrections, the department of public safety, the department of social services**, the department of elementary and secondary education,** and the department of mental health shall collaborate with the department to compare records on child-care, elder-care and personal-care workers, **including those individuals required to undergo a background check under the provisions of section 168.133, RSMo,** and the records of persons with criminal convictions and the background checks pursuant to subdivisions (1) to (6) of subsection 2 of section 210.903, and to enter into any interagency agreements necessary to facilitate the receipt of such information and the ongoing updating of such information. The department shall promulgate rules and regulations concerning such updating, including subsequent background reviews as listed in subsection 1 of section 210.909.

210.922. The department of health and senior services, department of mental health, **department of elementary and secondary education,** and department of social services may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters **168,** 190, 195, 197, 198, 630, and 660, RSMo.

556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful sexual offenses involving a person eighteen years of age or under **[**must**] may** be commenced **[**within twenty years after the victim reaches the age of eighteen unless the prosecutions are for forcible rape, attempted forcible rape, forcible sodomy, kidnapping, or attempted forcible sodomy in which case such prosecutions may be commenced**]** at any time.

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