

FIRST REGULAR SESSION

HOUSE BILL NO. 219

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KELLY (24) (Sponsor) AND DIECKHAUS (Co-sponsor).

0880L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 168.021, 168.133, 210.915, and 210.922, RSMo, and to enact in lieu thereof four new sections relating to protecting children from sexual offenders.

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

Section A. Sections 168.021, 168.133, 210.915, and 210.922, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 168.021, 168.133, 210.915,
3 and 210.922, to read as follows:

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;

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

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.

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 (4) By the state board, under rules prescribed by it, on the basis of a relevant bachelor's
28 degree, or higher degree, and a passing score for the designated exit examination, for individuals
29 whose academic degree and professional experience are suitable to provide a basis for instruction
30 solely in the subject matter of banking or financial responsibility, at the discretion of the state
31 board. Such certificate shall be limited to the major area of study of the holder and shall be
32 restricted to those certificates established under subdivision (1) of subsection 3 of this section.
33 Holders of certificates granted under this subdivision shall be exempt from the teacher tenure act
34 under sections 168.102 to 168.130 and each school district shall have the decision-making
35 authority on whether to hire the holders of such certificates; or

36 (5) By the state board, under rules and regulations prescribed by it, on the basis of
37 certification by the American Board for Certification of Teacher Excellence (ABCTE) and
38 verification of ability to work with children as demonstrated by sixty contact hours in any one
39 of the following areas as validated by the school principal: sixty contact hours in the classroom,
40 of which at least forty-five must be teaching; sixty contact hours as a substitute teacher, with at
41 least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private
42 school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE
43 certificate of license to teach, except that such certificate shall not be granted for the areas of
44 early childhood education, elementary education, or special education. Upon the completion of
45 the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an applicant shall
46 be eligible to apply for a career continuous professional certificate under subdivision (2) of
47 subsection 3 of this section:

48 (a) Completion of thirty contact hours of professional development within four years,
49 which may include hours spent in class in an appropriate college curriculum;

50 (b) Validated completion of two years of the mentoring program of the American Board
51 for Certification of Teacher Excellence or a district mentoring program approved by the state
52 board of education;

53 (c) Attainment of a successful performance-based teacher evaluation; and

54 (d) Participate in a beginning teacher assistance program.

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

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

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

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

75 (b) Complete thirty contact hours of professional development, which may include hours
76 spent in class in an appropriate college curriculum, or for holders of a certificate under
77 subdivision (4) of subsection 1 of this section, an amount of professional development in
78 proportion to the certificate holder's hours in the classroom, if the certificate holder is employed
79 less than full time; and

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

81 (2) (a) The career continuous professional certificate shall be issued upon verification
82 of completion of four years of teaching under the initial professional certificate and upon
83 verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of
84 subdivision (1) of this subsection or paragraphs (a), (b), (c), and (d) of subdivision (5) of
85 subsection 1 of this section.

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

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

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

106 b. Possesses a master's degree; or

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

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

115 5. The state board shall, upon [an appropriate] **completion of a background check as**
116 **prescribed in section 168.133**, issue a professional certificate classification in the areas most
117 closely aligned with an applicant's current areas of certification, commensurate with the years
118 of teaching experience of the applicant, to any person who is hired to teach in a public school in
119 this state and who possesses a valid teaching certificate from another state or certification under
120 subdivision (4) of subsection 1 of this section, provided that the certificate holder shall annually
121 complete the state board's requirements for such level of certification, and shall establish policies

122 by which residents of states other than the state of Missouri may be assessed a fee for a certificate
123 license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to
124 recover any or all costs associated with the issuing of a certificate of license to teach. The board
125 shall promulgate rules to authorize the issuance of a provisional certificate of license, which shall
126 allow the holder to assume classroom duties pending the completion of a criminal background
127 check under section 168.133, for any applicant who:

- 128 (1) Is the spouse of a member of the armed forces stationed in Missouri;
- 129 (2) Relocated from another state within one year of the date of application;
- 130 (3) Underwent a criminal background check in order to be issued a teaching certificate
131 of license from another state; and
- 132 (4) Otherwise qualifies under this section.

133 6. The state board may assess to holders of an initial professional certificate a fee, to be
134 deposited into the excellence in education revolving fund established pursuant to section
135 160.268, RSMo, for the issuance of the career continuous professional certificate. However,
136 such fee shall not exceed the combined costs of issuance and any criminal background check
137 required as a condition of issuance. Applicants for the initial ABCTE certificate shall be
138 responsible for any fees associated with the program leading to the issuance of the certificate,
139 but nothing in this section shall prohibit a district from developing a policy that permits fee
140 reimbursement.

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

147 8. The provisions of subdivision (5) of subsection 1 of this section, as well as any other
148 provision of this section relating to the American Board for Certification of Teacher Excellence,
149 shall terminate on August 28, 2014.

168.133. 1. The school district shall ensure that a criminal background check is
2 conducted on any person employed after January 1, 2005, authorized to have contact with pupils
3 and prior to the individual having contact with any pupil. Such persons include, but are not
4 limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians,
5 cooks, and nurses. The school district shall also ensure that a criminal background check is
6 conducted for school bus drivers. The district may allow such drivers to operate buses pending
7 the result of the criminal background check. For bus drivers, the **school district shall be**
8 **responsible for conducting the criminal** background check [shall be conducted] on drivers

9 employed by the school district [or] . **For drivers** employed by a pupil transportation company
10 under contract with the school district, **the criminal background check shall be conducted**
11 **under section 43.540 and conform to the requirements established in the National Child**
12 **Protection Act of 1993, as amended by the Volunteers for Children Act. Personnel who**
13 **have undergone a criminal background check and a check of the family care safety registry**
14 **as part of the professional license application process under section 168.021 and who have**
15 **received clearance on the checks within one prior year of employment shall be considered**
16 **to have completed the background check requirement. A criminal background check**
17 **under this section shall include a search of any information publicly available in an**
18 **electronic format through a public index or single case display.**

19 2. In order to facilitate the criminal history background check [on any person employed
20 after January 1, 2005], the applicant shall submit [two sets] **a set** of fingerprints collected
21 pursuant to standards determined by the Missouri highway patrol. [One set of] **The** fingerprints
22 shall be used by the highway patrol to search the criminal history repository [and the family care
23 safety registry pursuant to sections 210.900 to 210.936, RSMo,] and [the second set] shall be
24 forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.
25 **In addition to the state and federal criminal background check, any employee employed**
26 **after July 1, 2012, and required by the provisions of subsection 1 of this section to undergo**
27 **a criminal background check shall be required to register with the family care safety**
28 **registry under the provisions of sections 210.900 to 210.936.**

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

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

45 **checks of those persons previously submitted, both those who have an active certificate and**
46 **those who do not have an active certificate, by the department of elementary and secondary**
47 **education. This shall fulfill the annual check against the criminal history records in the**
48 **central repository under section 43.530.**

49 **5.** The school district may adopt a policy to provide for reimbursement of expenses
50 incurred by an employee for state and federal criminal history information pursuant to section
51 43.530, RSMo.

52 [5.] **6.** If, as a result of the criminal history background check mandated by this section,
53 it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty
54 or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a
55 similar crime or offense committed in another state, the United States, or any other country,
56 regardless of imposition of sentence, such information shall be reported to the department of
57 elementary and secondary education.

58 [6.] **7.** Any school official making a report to the department of elementary and
59 secondary education in conformity with this section shall not be subject to civil liability for such
60 action.

61 [7.] **8.** For any teacher who is employed by a school district on a substitute or part-time
62 basis within one year of such teacher's retirement from a Missouri school, the state of Missouri
63 shall not require such teacher to be subject to any additional background checks prior to having
64 contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
65 restricting a school district from requiring additional background checks for such teachers
66 employed by the school district.

67 [8.] **9.** A criminal background check and fingerprint collection conducted under
68 subsections 1 and 2 of this section shall be valid for at least a period of one year and transferrable
69 from one school district to another district. **A school district may, in its discretion and at its**
70 **expense, conduct a new criminal background check and fingerprint collection under**
71 **subsections 1 and 2 for a newly hired employee.** A teacher's change in type of certification
72 shall have no effect on the transferability or validity of such records.

73 [9.] **10.** Nothing in this section shall be construed to alter the standards for suspension,
74 denial, or revocation of a certificate issued pursuant to this chapter.

75 [10.] **11.** The state board of education may promulgate rules for criminal history
76 background checks made pursuant to this section. Any rule or portion of a rule, as that term is
77 defined in section 536.010, RSMo, that is created under the authority delegated in this section
78 shall become effective only if it complies with and is subject to all of the provisions of chapter
79 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
80 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter

81 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
82 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
83 or adopted after January 1, 2005, shall be invalid and void.

210.915. The department of corrections, the department of public safety, the department
2 of social services, **the department of elementary and secondary education**, and the
3 department of mental health shall collaborate with the department to compare records on
4 child-care, elder-care, mental health, and personal-care workers, **including those individuals**
5 **required to undergo a background check under the provisions of section 168.133**, and the
6 records of persons with criminal convictions and the background checks pursuant to subdivisions
7 (1) to (8) of subsection 2 of section 210.903, and to enter into any interagency agreements
8 necessary to facilitate the receipt of such information and the ongoing updating of such
9 information. The department shall promulgate rules and regulations concerning such updating,
10 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,
2 **department of elementary and secondary education**, and department of social services may
3 use the registry information to carry out the duties assigned to the department pursuant to this
4 chapter and chapters **168**, 190, 195, 197, 198, 630, and 660.