

FIRST REGULAR SESSION

HOUSE BILL NO. 413

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PETERS.

1119L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 167.031, RSMo, and to enact in lieu thereof two new sections relating to habitual absence and tardiness of students from school, with penalty provisions.

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

Section A. Section 167.031, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 167.031 and 167.062, to read as follows:

167.031. 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. **Habitual absence or habitual tardiness shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.062, except as provided in this section.** A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that:

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.

17 (1) A child who, to the satisfaction of the superintendent of public schools of the district
18 in which he resides, or if there is no superintendent then the chief school officer, is determined
19 to be mentally or physically incapacitated may be excused from attendance at school for the full
20 time required, or any part thereof;

21 (2) A child between fourteen years of age and the compulsory attendance age for the
22 district may be excused from attendance at school for the full time required, or any part thereof,
23 by the superintendent of public schools of the district, or if there is none then by a court of
24 competent jurisdiction, when legal employment has been obtained by the child and found to be
25 desirable, and after the parents or guardian of the child have been advised of the pending action;
26 or

27 (3) A child between five and seven years of age shall be excused from attendance at
28 school if a parent, guardian or other person having charge, control or custody of the child makes
29 a written request that the child be dropped from the school's rolls.

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31 **Except as otherwise provided in this section, habitual absence or habitual tardiness shall**
32 **cause a child's parent, guardian or other responsible person to be in violation of the**
33 **provisions of section 167.062.**

34 2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether
35 incorporated or unincorporated, that:

36 (a) Has as its primary purpose the provision of private or religious-based instruction;
37 (b) Enrolls pupils between the ages of seven years and the compulsory attendance age
38 for the district, of which no more than four are unrelated by affinity or consanguinity in the third
39 degree; and

40 (c) Does not charge or receive consideration in the form of tuition, fees, or other
41 remuneration in a genuine and fair exchange for provision of instruction.

42 (2) As evidence that a child is receiving regular instruction, the parent shall, except as
43 otherwise provided in this subsection:

44 (a) Maintain the following records:

45 a. A plan book, diary, or other written record indicating subjects taught and activities
46 engaged in; and

47 b. A portfolio of samples of the child's academic work; and

48 c. A record of evaluations of the child's academic progress; or

49 d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

50 (b) Offer at least one thousand hours of instruction, at least six hundred hours of which
51 will be in reading, language arts, mathematics, social studies and science or academic courses
52 that are related to the aforementioned subject areas and consonant with the pupil's age and

53 ability. At least four hundred of the six hundred hours shall occur at the regular home school
54 location.

55 (3) The requirements of subdivision (2) of this subsection shall not apply to any pupil
56 above the age of sixteen years.

57 3. Nothing in this section shall require a private, parochial, parish or home school to
58 include in its curriculum any concept, topic, or practice in conflict with the school's religious
59 doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the
60 school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all
61 departments or agencies of the state of Missouri shall be prohibited from dictating through rule,
62 regulation or other device any statewide curriculum for private, parochial, parish or home
63 schools.

64 4. A school year begins on the first day of July and ends on the thirtieth day of June
65 following.

66 5. The production by a parent of a daily log showing that a home school has a course of
67 instruction which satisfies the requirements of this section or, in the case of a pupil over the age
68 of sixteen years who attended a metropolitan school district the previous year, a written statement
69 that the pupil is attending home school in compliance with this section shall be a defense to any
70 prosecution under this section and to any charge or action for educational neglect brought
71 pursuant to chapter 210.

72 6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the
73 district" shall mean:

74 (1) Seventeen years of age for any metropolitan school district for which the school
75 board adopts a resolution to establish such compulsory attendance age; provided that such
76 resolution shall take effect no earlier than the school year next following the school year during
77 which the resolution is adopted; and

78 (2) Seventeen years of age or having successfully completed sixteen credits towards high
79 school graduation in all other cases. The school board of a metropolitan school district for which
80 the compulsory attendance age is seventeen years may adopt a resolution to lower the
81 compulsory attendance age to sixteen years; provided that such resolution shall take effect no
82 earlier than the school year next following the school year during which the resolution is
83 adopted.

84 7. For purposes of subsection 2 of this section as applied in subsection 6 [herein] of **this**
85 **section**, a "completed credit towards high school graduation" shall be defined as one hundred
86 hours or more of instruction in a course. Home school education enforcement and records
87 pursuant to this section, and sections 210.167 and 211.031, shall be subject to review only by the
88 local prosecuting attorney.

167.062. 1. Any parent, guardian or other person having charge, control or custody of a child, who in violation of section 167.031 permits a child to be habitually absent or habitually tardy from school without a valid excuse shall be fined not less than twenty-five dollars and not more than two hundred fifty dollars for each offense, or imprisoned for not more than thirty days, or both. The court shall impose a minimum condition of probation which may include that the parent, guardian, or legal custodian participate in forty hours of school or community service activities, or a combination of forty hours of school or community service and attendance in parenting classes or family counseling sessions or programs approved by the court of jurisdiction.

2. For purposes of this section and section 167.031, "habitually absent" or "habitually tardy" is when either condition continues to exist after all reasonable efforts by a principal or other appropriate authority have failed to correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any month or if a pattern of five absences a month is established.

3. In any case where the child is the subject of a court-ordered custody or visitation plan, the parent or legal guardian who is lawfully exercising actual physical custody or visitation of the child shall be responsible for the child's attendance at school on those days and shall be solely responsible for any absence or tardiness of the child on such days. The parent or guardian not exercising actual physical custody or visitation on the day of the absence or tardiness shall not be in violation of this section.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset five years after the effective date of this section, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset ten years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

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