AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to alternative instruction delivery systems for virtual instructional programs.

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

Section A. Chapter 162, RSMo, is amended by adding thereto one new section, to be known as section 162.1260, to read as follows:

162.1260. 1. As used in this section, the following terms mean:

(1) "Asynchronous instruction", interaction between instructor and student that is not dependent on real time. Asynchronous instruction allows the student to engage in learning activities anywhere at any time. For instruction to be considered asynchronous, the primary format of instruction does not depend on real-time interaction of the participants;

(2) "Charter school", any charter school established under sections 160.400 to 160.420 and located, at the time it is established, within a school district;

(3) "Department", the department of elementary and secondary education;

(4) "Distance learning plan", a plan, implemented under a public school's distance learning policy, describing any means by which instruction will be delivered to students outside a conventional school setting. A distance learning plan shall meet the standards for virtual programs of instruction listed in section 162.1250;

(5) "MOCAP", the Missouri course access and virtual school program established under section 161.670;

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.
(6) "Public school", any school for elementary or secondary education, open and public, that is supported and maintained from public funds and that is operated by the board of education of a school district or operated as a charter school;

(7) "Synchronous instruction", primary interactions between the instructor and student that are in real time. Regular classroom instruction and two-way interactive video instruction are forms of synchronous instruction. Virtual instruction that requires real-time interaction between the student and instructor as the primary format of instruction is also a form of synchronous instruction;

(8) "Two-way interactive video instruction", real-time or synchronous interaction between a student and instructor by means of an electronic medium that provides for both audio and video signals. Students and instructors participating in two-way interactive video instruction may see and hear each other in an approximation of real-time;

(9) "Virtual instruction", the use of the internet or other such digital information transmission systems as the primary medium of instruction. Virtual instruction may be asynchronous or synchronous or may combine asynchronous instruction and synchronous instruction.

2. For all school years beginning on or after July 1, 2021, any virtual instructional program offered for instructional purposes or high school credit by any public school shall be an approved MOCAP course consistent with all requirements in section 161.670.

3. All public schools shall adopt policies regarding virtual instructional courses that comply with the following guidelines:

(1) Virtual instruction and two-way interactive video instruction shall be viewed as methods by which the public school may expand course offerings and access to instructional resources. Such technologies shall not be viewed solely as substitutes for direct, face-to-face student and teacher interactions but as a means of expanding the ability of the public school to support both teaching and learning. With the exception of a charter school authorized by its sponsor to provide virtual instruction only or during emergency circumstances as addressed below, a public school shall offer in-person classroom instructional opportunities in addition to any virtual instructional opportunities offered to students;

(2) As authorized in the event of an emergency declared by a federal or state government entity that impacts the operation of public schools in this state, or upon an action taken by the state board of education declaring such an emergency that leads to the temporary emergency closure of school campuses or otherwise significantly impacts the operation of public schools in this state as determined by the state board of education, public schools may implement distance learning plans that provide for distance learning
that is accessible to all students. A public school may adopt a policy providing for the short-term implementation of a distance learning plan due to a localized emergency such as a weather-related public school closure or a localized public health emergency. A public school's approved academic calendar may build in one or more emergency closure make-up days to be delivered through the distance learning plan in the same manner as a school district's calendar may build in additional standard school days to be held as make-up days in case of emergency weather closures under section 171.031;

(3) A public school may adopt a distance learning plan policy that provides for virtual or partially virtual instruction under sections 161.670 and 162.1250 to deliver home-based education to a student who cannot attend school in person for a period of time due to extended medical or other issues. If a public school delivers the home-based education program solely through virtual instruction, the public school shall provide the internet connectivity and devices necessary to access the instruction free of charge to any participating student who does not already have access to the necessary internet connectivity or devices; and

(4) A public school shall submit a copy of the school's distance learning plan to the department within ten business days after adoption by the public school district board of education or charter school governing board. If an update or revision of the policy is adopted, such amended policy shall also be submitted to the department within ten business days after adoption. A public school policy authorizing the implementation of a distance learning plan shall address the following considerations:

(a) Participation in the distance learning plan shall be accessible to every student regardless of household resources. If a public school requires students to engage with instruction or content using the internet or other means of remote connectivity, the public school shall ensure the student has access to the internet connectivity and any devices necessary and, if not, the public school shall provide such internet connectivity and devices for student use free of charge. If a public school cannot provide internet connectivity and device access for the use of all students because of budgetary, geographical, or other limitations but plans to use virtual instruction as part of a distance learning plan adopted under subdivision (2) of subsection 3 of this section, the distance learning plan shall provide for alternate methods to deliver equitably equivalent instruction to all students. Such alternate means may include approaches such as paper packets of instructional materials supplemented by periodic direct contact with teachers in person or by telephone or other method of communication. A school district shall ensure that the student has access to all materials necessary for participating in a public school's distance learning plan and, if the student does not already have the necessary materials, shall ensure access
free of charge by providing packets of paper instructional materials, blank paper for assignment completion, and writing instruments or other supplies as appropriate for the grade level or subject area if required for assignment completion. If a public school's policy for distance learning allows for different instructional delivery methods because of the inability to provide internet connectivity and devices to all students, the policy shall address the public school's methods for making individualized determinations of which students would be able to access virtual instruction and which students would not and shall address equitable plans for serving students who would not have access to virtual instruction;

(b) A public school's distance learning plan shall provide that instruction and content provided through virtual education or other distance learning delivery methods is consistent with the state academic performance standards and learning standards for the subject area or grade level in which credit is awarded. Instruction and content provided through distance learning delivery methods other than virtual instruction shall be equitably equivalent to the instruction and content provided through virtual instruction; and

(c) As a condition of adopting a distance learning plan under this section, a public school shall establish clear written policies for students receiving instructional services in the plan such as measurements of attendance for students and staff, awarding of credits for course completion, participation in extracurricular activities, and other policies as determined by the public school. Attendance policies for distance learning provided by means other than virtual education may consider factors such as assignment completion and engagement with instructional supports, but no student shall have a grade lowered or be otherwise penalized for failure to engage with instructional supports if the student does not have the resources to access virtual instruction. Records of student enrollment and attendance in virtual instruction programs shall be maintained through the public school's authorized student information system consistent with all requirements of sections 161.670 and 162.1250. Virtual attendance policies for school districts and charter schools shall include, but not be limited to:

a. The attendance for a student participating in a virtual instruction program shall be the date on which the student first completes an instructional activity; and

b. The defined time period, assignment completion status, or other means used to determine student attendance in the virtual program shall meet the measures of virtual attendance and comply with all provisions listed in sections 161.670 and 162.1250.

4. To ensure equitable access to instruction, in the development of a policy authorizing a distance learning plan as provided in subsection 3 of this section, the public
school shall consult a working group of community stakeholders. The public school shall include individuals of different backgrounds and experiences to provide for the development of a distance learning plan that is accessible to the entire school community. The working group shall include:

1. School leaders and teachers;
2. Parents or guardians and other community members representing different socioeconomic statuses, racial and ethnic identities, and cultural perspectives; and
3. Other individuals or groups identified by the public school whose perspectives are appropriate to consider in the development of a distance learning plan.

5. A certified staff member shall be identified by each public school principal to serve as the building-level contact individual to assist students enrolling in online courses and serve as a liaison to the online teachers and MOCAP providers.

6. Courses offered for credit by means of virtual instruction shall be aligned with the state academic performance standards and learning standards.

7. Each teacher of two-way interactive video instruction or virtual instruction shall be provided in-service training pertaining to the methodology of instructional delivery and the technical aspects of distance learning.

8. The security of individual student data and records shall be addressed by local public school policy. No individual student data obtained through participation in virtual instruction courses shall be used for any purposes other than those that support the instruction of the individual student. Under all circumstances, the provisions of the federal Family Educational Rights and Privacy Act (FERPA) apply to student data held or accessed by any public school or the public school's contractors or agents including any contracted provider of virtual instruction or other distance learning media.

9. All federal and state statutes and regulations pertaining to student privacy, the transmission or posting of images or other content on the internet, copyright of materials, Federal Communications Commission (FCC) rules pertaining to the public broadcasting of audio and video, and other such issues shall apply to virtual instruction platforms, media, and any associated content.

10. Prior to the beginning of instruction, cooperating public schools sharing courses by means of two-way interactive video instruction technology shall, by means of contractual agreement, address such issues as:

   1. Instruction costs;
   2. Instruction schedules;
   3. School calendars;
   4. Student behavior;
(5) Teacher evaluation;

(6) Textbooks or other course materials;

(7) Class periods and other such interactive video sessions;

(8) Student grades and grading policies;

(9) Teacher load; and

(10) Instructor employment.

11. Instructors of virtual courses shall be:

(1) Certified in Missouri to teach in the content area of the course offered; or

(2) A faculty member at an accredited institution of higher education who possesses the specific content expertise necessary to teach the course.