

SECOND REGULAR SESSION

SENATE BILL NO. 1025

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time February 20, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5164S.02I

AN ACT

To amend chapters 135 and 166, RSMo, by adding thereto ten new sections relating to educational scholarship accounts, with a penalty provision.

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

Section A. Chapters 135 and 166, RSMo, are amended by adding thereto
2 ten new sections, to be known as sections 135.780, 135.782, 135.784, 135.786,
3 135.788, 166.650, 166.652, 166.654, 166.656, and 166.658, to read as follows:

**135.780. 1. Sections 135.780 to 135.788 and sections 166.650 to
2 166.658 shall be known and may be cited as the "Child Safety
3 Scholarship Program".**

**4 2. As used in sections 135.780 to 135.788 and sections 166.650 to
5 166.658, the following terms shall mean:**

**6 (1) "Certified donation", any donation certified by the state
7 treasurer as eligible for a tax credit under sections 135.780 to 135.788;**

**8 (2) "Department", the department of elementary and secondary
9 education;**

**10 (3) "Educational scholarship", a scholarship provided to a
11 qualifying student in his or her qualified tuition savings account
12 established pursuant to Section 529 of the Internal Revenue Code to
13 cover all or part of tuition at a qualified school;**

**14 (4) "Parent", a parent, guardian, custodian, or other person with
15 authority to act on behalf of a qualified student;**

**16 (5) "Qualifying expenses", any education expense necessary for
17 a qualifying student, including:**

18 (a) Tuition or courses at a qualifying school;

19 (b) Textbooks;

20 (c) Tutoring by an authorized provider;

- 21 (d) Transportation to and from a qualifying school;
- 22 (e) Therapy necessary to cope with the trauma of a safety
23 incident;
- 24 (f) College courses; and
- 25 (g) Any other required education materials;
- 26 (6) "Qualified donor", an individual subject to the state income
27 tax imposed in chapter 143; an individual, a firm, a partner in a firm,
28 corporation, or a shareholder in an S corporation doing business in this
29 state and subject to the state income tax imposed by chapter 143; or an
30 express company that pays an annual tax on its gross receipts in this
31 state under chapter 153, which files a Missouri income tax return and
32 is not a dependent of any other taxpayer, and who makes a certified
33 donation to the child safety scholarship fund as set forth in section
34 135.784;
- 35 (7) "Qualified school", a charter school as defined in section
36 160.400, a home school as defined in section 167.031, a private school,
37 a public school as defined in section 160.011, or a public or private
38 virtual school that is incorporated in Missouri that:
- 39 (a) Ensures all employees are permitted to work in a school and
40 are not a threat to student safety;
- 41 (b) Ensures financial stability with a yearly independent
42 financial audit provided to the state treasurer; and
- 43 (c) Ensures funds from educational scholarships are spent
44 appropriately for the education of students;
- 45 (8) "Qualified student", a resident of this state who is:
- 46 (a) Enrolled in a qualified school;
- 47 (b) Has attended a qualified school; and
- 48 (c) Has been subject to a school safety issue;
- 49 (9) "School safety issue", a reported incident of:
- 50 (a) Bullying, as defined in section 192.2400;
- 51 (b) Sexual harassment;
- 52 (c) Sexual abuse;
- 53 (d) Sexual misconduct;
- 54 (e) Gang activity;
- 55 (f) Fights;
- 56 (g) Suicide attempts or threats;
- 57 (h) Shootings;

- 58 (i) Drug use;
- 59 (j) Special safety needs;
- 60 (k) Food safety needs;
- 61 (l) Health related safety needs;
- 62 (m) Act of violence against the qualified student;
- 63 (n) Other safety concerns and fears as determined by a qualified
64 student and parent;
- 65 (10) "Scholarship fund", the child safety scholarship fund
66 administered by the state treasurer.

135.782. 1. For all fiscal years beginning on or after July 1, 2021,
2 any taxpayer who makes a certified donation to the child safety
3 scholarship fund set forth in section 135.786 may claim a credit against
4 the tax otherwise due under chapter 143, other than taxes withheld
5 under sections 143.191 to 143.265, and chapter 153, in an amount equal
6 to one hundred percent of the amount the taxpayer contributed during
7 the tax year for which the credit is claimed. No taxpayer shall claim
8 a credit under sections 135.780 to 135.788 for any donation made by the
9 taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's
10 dependent, or in the case of a business taxpayer, on behalf of the
11 business's agent's dependent.

12 2. The amount of the tax credit claimed shall not exceed fifty
13 percent of the taxpayer's state tax liability for the tax year for which
14 the credit is claimed. The state treasurer shall certify the tax credit
15 amount to the taxpayer. A taxpayer may carry the credit forward to
16 any of such taxpayer's five subsequent tax years. All tax credits
17 authorized under the program shall not be transferred, sold, or
18 assigned, and are not refundable.

19 3. The cumulative amount of tax credits that may be allocated to
20 all taxpayers donating to the scholarship fund in any one calendar year
21 shall not exceed twenty-five million dollars, which amount shall be
22 annually adjusted by the state treasurer for inflation based on the
23 consumer price index for all urban consumers for the Midwest region,
24 as defined and officially recorded by the United States Department of
25 Labor or its successor. Each year that the tax credit donations meet
26 ninety percent of the yearly limit, the limit shall increase by twenty-
27 five percent the following year. The state treasurer shall establish a
28 procedure by which the tax credits shall be allocated to taxpayers on

29 a first come, first served basis. The state treasurer shall establish the
30 procedure described in this subsection in such a manner as to ensure
31 that taxpayers can claim all the tax credits possible up to the
32 cumulative amount of tax credits available for the calendar year.

135.784. 1. The state treasurer shall:

2 (1) Establish a process to accept certified donation pledges and
3 provide certificates to the certified donor and ensure donors are
4 handled in an equal manner;

5 (2) Create a process for handling noncertified donations, which
6 shall include:

7 (a) Mailing a form to the donor to:

8 a. Determine whether the donor would like a refund of the
9 noncertified donation;

10 b. Determine whether the donor would like the noncertified
11 portion to be used for additional scholarships;

12 c. Notify the donor that such form shall be returned within
13 fifteen business days if the donor would like the noncertified donation
14 to be used for scholarships; and

15 d. Notify the donor that if the noncertified portion is used for
16 additional scholarships, such funds shall not be eligible as a tax credit,
17 and the donor may only be eligible to claim such funds as a charitable
18 donation under federal and state laws;

19 (b) Keeping returned forms for five years for auditing purposes;
20 and

21 (c) Ensuring noncertified donations are used for scholarships
22 and not for administrative purposes;

23 (3) Provide a standardized format for a receipt to be issued to a
24 taxpayer to indicate the value of a donation received. The state
25 treasurer shall require a taxpayer to provide a copy of this receipt if
26 claiming the tax credit authorized by sections 135.780 to 135.788;

27 (4) Ensure that no donation is directed to a specified student or
28 school, but may authorize donations for a specific type of qualified
29 school, or for students affected by a specific type of safety issue;

30 (5) In a case in which the total donations from all certified
31 donors for a tax year exceed the allowable tax credits, prorate the
32 certified donation amounts across such certified donors for such tax
33 year, and ensure that any amount over such reduced amounts are

34 noncertified and not eligible for a tax credit under the provisions of
35 sections 135.780 to 135.788;

36 (6) Provide a standardized format for qualifying schools to
37 provide the results from an annual parental satisfaction survey,
38 including information about the number of years that the parent's child
39 has participated in the scholarship program. The annual satisfaction
40 survey shall ask parents of scholarship students to express:

41 (a) Their satisfaction with their child's academic achievement,
42 including academic achievement at the school their child attended
43 through the scholarship program versus academic achievement at the
44 school previously attended;

45 (b) Their satisfaction with school safety at the schools their child
46 attends through the scholarship program versus safety at the schools
47 previously attended;

48 (c) Whether their child would have been able to attend their
49 school of choice without the scholarship; and

50 (d) Their opinions on other topics, items, or issues that the state
51 treasurer finds would elicit information about the effectiveness of the
52 scholarship program;

53 (7) Ensure compliance with all student privacy laws for data in
54 the state treasurer's possession; and

55 (8) Issue a report on the state of the child safety scholarship
56 program five years after it goes into effect. The report shall include,
57 but is not limited to:

58 (a) Educational outcomes of qualified students; and

59 (b) Results of the annual parental satisfaction surveys, as set
60 forth in this section.

61 2. The state treasurer may bar a qualifying school from
62 participating in the program if the state treasurer establishes that the
63 school has intentionally and substantially failed to comply with the
64 requirements in sections 135.780 to 135.788. If the state treasurer bars
65 a school from the program under this subsection, it shall notify affected
66 qualified students and their parents of the decision as soon as possible
67 after the determination is made.

135.786. 1. There is hereby created in the state treasury the
2 "Child Safety Scholarship Fund" which shall consist of money collected
3 under sections 135.780 to 135.788. The state treasurer shall be

4 custodian of the fund. In accordance with sections 30.170 and 30.180,
5 the state treasurer may approve disbursements. The fund shall be a
6 dedicated fund and money in the fund shall be used solely to carry out
7 the provisions of sections 135.780 to 135.788 and sections 166.650 to
8 166.658.

9 2. Notwithstanding the provisions of section 33.080 to the
10 contrary, any moneys remaining in the fund at the end of the biennium
11 shall not revert to the credit of the general revenue fund.

12 3. The state treasurer shall invest moneys in the fund in the
13 same manner as other funds are invested. Any interest and moneys
14 earned on such investments shall be credited to the fund.

135.788. The state treasurer may promulgate rules to implement
2 the provisions of sections 135.780 to 135.788. Any rule or portion of a
3 rule, as that term is defined in section 536.010, that is created under
4 the authority delegated in this section shall become effective only if it
5 complies with and is subject to all of the provisions of chapter 536 and,
6 if applicable, section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the general assembly
8 pursuant to chapter 536 to review, to delay the effective date, or to
9 disapprove and annul a rule are subsequently held unconstitutional,
10 then the grant of rulemaking authority and any rule proposed or
11 adopted after August 28, 2020, shall be invalid and void.

166.650. 1. Upon receipt of a report of a school safety issue at a
2 qualified school, such school shall:

- 3 (1) Submit such report to the department; and
- 4 (2) Provide a copy of the report to each family and educator
5 involved in the school safety issue.

6 2. The department shall complete an investigation of the report
7 not later than fifteen days after receiving such report to determine
8 whether the report has merit.

9 3. The qualified school shall inform the parents of the student on
10 whose behalf the report was submitted:

- 11 (1) Whether or not the investigation has determined a school
12 safety issue exists at the school for the student; and
- 13 (2) In the case in which the department determines that a school
14 safety issue does exist, that the parent may be eligible to receive an
15 educational scholarship to transfer his or her qualified student to a

16 **qualified school.**

17 **4. A parent of a qualified student may receive an educational**
18 **scholarship for the student by entering into a written agreement with**
19 **the state treasurer. The agreement shall provide that:**

20 **(1) The qualified student shall enroll in a qualified school and**
21 **receive an education in at least the subjects of English language arts,**
22 **mathematics, social studies, and science;**

23 **(2) The qualified student shall not be enrolled in a school**
24 **operated by the qualified student's district of residence or a charter**
25 **school, except for a qualified student that is in the custody of the state,**
26 **and shall release the district of residence from all obligations to**
27 **educate the qualified student while the qualified student is enrolled in**
28 **the program; except that, this subdivision shall not relieve the student's**
29 **district of residence from the obligation to conduct an evaluation for**
30 **disabilities;**

31 **(3) The qualified student shall receive a grant, in the form of**
32 **money deposited pursuant to section 135.784, in the qualified student's**
33 **qualified tuition savings account;**

34 **(4) The money deposited in the qualified student's qualified**
35 **tuition savings account shall be used only for qualifying expenses**
36 **defined in section 135.780.**

37 **5. The state treasurer shall designate a private entity to:**

38 **(1) Create a qualified tuition savings account, established**
39 **pursuant to Section 529 of the Internal Revenue Code, for a qualified**
40 **student if such student does not currently have a qualified tuition**
41 **savings account;**

42 **(2) Ensure that the department transfers an amount not to**
43 **exceed the state adequacy target as defined in section 163.011 and**
44 **calculated by the department, except that:**

45 **(a) The amount shall be pro-rated based on the number of days**
46 **remaining in the school year if the safety incident occurs after the**
47 **school year has begun; and**

48 **(b) In the case of a student with an individual education plan or**
49 **an accommodation plan issued under section 504 of the Rehabilitation**
50 **Act of 1973, 29 U.S.C. Section 794, such amount shall be increased to**
51 **equal the per pupil expenditure for such a student;**

52 **(3) Notify the department and the qualified school in which the**

53 student was previously enrolled of the account creation, including the
54 amount deposited into the account; and

55 (4) Ensure that no more than five percent of the funds received
56 from the state treasurer shall be used for administrative purposes.

57 6. Educational scholarships are renewable on an annual basis
58 upon request of the parent of a qualified student. Notwithstanding any
59 changes to the qualified student's multidisciplinary evaluation team
60 plan, a student who has previously qualified for an educational
61 scholarship shall remain eligible to apply for renewal until the student
62 completes high school and submits scores from a nationally
63 standardized norm-referenced achievement test, advanced placement
64 examination, international baccalaureate examination, or any exam
65 related to college or university admission purchased with educational
66 scholarship funds to the state treasurer.

67 7. A signed agreement under this section shall satisfy the
68 compulsory school attendance requirements of section 167.031.

69 8. A qualified school or a provider of services purchased under
70 this section shall not share, refund, or rebate any educational
71 scholarship moneys with the parent or qualified student in any manner.

72 9. If a qualified student withdraws from the program by
73 enrolling in a school other than a qualified school, or is disqualified
74 from the program under the provisions of section 166.652, any
75 remaining scholarship funds shall be returned to the state treasurer for
76 redistribution to other qualified students. Under such circumstances,
77 the obligation to provide an education for such student shall transfer
78 back to the student's district of residence.

79 10. Any funds remaining in a qualified student's account at the
80 end of a school year shall remain in the account and shall not be
81 returned to the state treasurer. Any funds remaining in a qualified
82 student's account upon graduation from a qualified school shall remain
83 in the account and shall only be used for post secondary expenses.

84 11. Moneys received under sections 166.650 to 166.725 shall not
85 constitute Missouri taxable income to the parent of the qualified
86 student.

166.652. 1. Beginning in the 2022-2023 school year, the state
2 treasurer shall conduct or contract for annual audits of qualified
3 tuition savings accounts to ensure compliance with the requirements

4 of subsection 4 of section 166.650. The state treasurer shall also
5 conduct or contract for random, quarterly, and annual audits of
6 qualified tuition savings as needed to ensure compliance with the
7 requirements of subsection 4 of section 166.650.

8 2. A parent or qualified student or vendor may be disqualified
9 from program participation if the state treasurer, or his or her
10 designee, finds the party has committed an intentional program
11 violation consisting of any misrepresentation or other act that
12 materially violates any law or rule governing the program. The state
13 treasurer may remove any parent or qualified student from eligibility
14 for an educational scholarship. A parent may appeal the state
15 treasurer's decision to the administrative hearing commission. A
16 parent may appeal the administrative hearing commission's decision to
17 the circuit court of the county in which the student resides.

18 3. The state treasurer may refer cases of substantial misuse of
19 moneys to the attorney general for investigation if the state treasurer
20 obtains evidence of fraudulent use of an account.

21 4. The state treasurer shall promulgate the following rules to
22 implement and administer the child safety scholarship program:

- 23 (1) Rules for conducting examinations of use of account funds;
24 (2) Rules for conducting random, quarterly, and annual reviews
25 of accounts;
26 (3) Creating an online anonymous fraud reporting service; and
27 (4) Creating an anonymous telephone hotline for fraud reporting.

28 5. Any rule or portion of a rule, as that term is defined in section
29 536.010, that is created under the authority delegated in this section
30 shall become effective only if it complies with and is subject to all of
31 the provisions of chapter 536 and, if applicable, section 536.028. This
32 section and chapter 536 are nonseverable and if any of the powers
33 vested with the general assembly pursuant to chapter 536 to review, to
34 delay the effective date, or to disapprove and annul a rule are
35 subsequently held unconstitutional, then the grant of rulemaking
36 authority and any rule proposed or adopted after August 28, 2020, shall
37 be invalid and void.

166.654. 1. A person commits a class A misdemeanor if such
2 person is found to have knowingly used moneys granted under section
3 135.784 for purposes other than those provided for in sections 166.650

4 to 166.658.

5 2. No financial institution shall be liable in any civil action for
6 providing an eligible student's financial information to the state
7 treasurer unless the information provided is false and the financial
8 institution providing the false information does so knowingly and with
9 malice.

 166.656. 1. Sections 166.650 to 166.658 do not permit any
2 governmental agency to exercise control or supervision over any
3 qualified school in which a qualified student enrolls other than a
4 qualified school that is a public school.

5 2. A qualified school, other than a qualified school that is a
6 public school, that accepts a payment from a parent under sections
7 166.650 to 166.658 shall not be considered an agent of the state or
8 federal government.

9 3. A qualified school shall not be required to alter its creed,
10 practices, admissions policy, or curriculum in order to accept students
11 whose parents pay tuition or fees from a qualified tuition savings
12 account to participate as a qualified school.

13 4. In any legal proceeding challenging the application of sections
14 166.650 to 166.658 to a qualified school, the state shall bear the burden
15 of establishing that the law is necessary and does not impose any undue
16 burden on qualified schools.

 166.658. All personally identifiable information concerning
2 eligible students and the parents of eligible students within the child
3 safety scholarship program pursuant to sections 135.780 to 135.788 and
4 sections 166.650 to 166.658 shall be confidential, and any disclosure of
5 such information shall be restricted to purposes directly connected
6 with administration of the program.

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