

FIRST REGULAR SESSION

# SENATE BILL NO. 460

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

0982S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 168.133, RSMo, and to enact in lieu thereof one new section relating to public school background checks.

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

Section A. Section 168.133, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 168.133,  
3 to read as follows:

168.133. 1. As used in this section, "screened  
2 volunteer" shall mean any person who assists a school by  
3 providing uncompensated service and who may periodically be  
4 left alone with students. The school district **or charter**  
5 **school** shall ensure that a criminal background check is  
6 conducted for all screened volunteers, who shall complete  
7 the criminal background check prior to being left alone with  
8 a student. [Screened volunteers include, but are not  
9 limited to, persons who regularly assist in the office or  
10 library, mentor or tutor students, coach or supervise a  
11 school-sponsored activity before or after school, or  
12 chaperone students on an overnight trip.] Screened  
13 volunteers may only access student education records when  
14 necessary to assist the district and while supervised by  
15 staff members. Volunteers that are not screened shall not  
16 be left alone with a student or have access to student  
17 records.

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18           2.   **(1)** The school district **or charter school** shall  
19 ensure that a criminal background check is conducted on any  
20 person employed after January 1, 2005, authorized to have  
21 contact with pupils and prior to the individual having  
22 contact with any pupil. [Such persons include, but are not  
23 limited to, administrators, teachers, aides,  
24 paraprofessionals, assistants, secretaries, custodians,  
25 cooks, screened volunteers, and nurses.]

26           **(2)** The school district **or charter school** shall also  
27 ensure that a criminal background check is conducted for  
28 school bus drivers **and drivers of other vehicles owned by**  
29 **the school district or charter school or operated under**  
30 **contract with a school district or charter school and used**  
31 **for the purpose of transporting school children.** The school  
32 district **or charter school** may allow such drivers to operate  
33 buses pending the result of the criminal background check.  
34 [For bus drivers,] The school district **or charter school**  
35 shall be responsible for conducting the criminal background  
36 check on drivers employed by the school district **or charter**  
37 **school under section 43.540.**

38           **(3)** For drivers employed **or contracted** by a pupil  
39 transportation company under contract with the school  
40 district **or the charter school**, the criminal background  
41 check shall be conducted **by the pupil transportation company**  
42 pursuant to section [43.540] **43.539** and conform to the  
43 requirements established in the National Child Protection  
44 Act of 1993, as amended by the Volunteers for Children Act.

45           **(4)** Personnel who have successfully undergone a  
46 criminal background check and a check of the family care  
47 safety registry as part of the professional license  
48 application process under section 168.021 and who have  
49 received clearance on the checks within one prior year of

50 employment shall be considered to have completed the  
51 background check requirement.

52       **(5)** A criminal background check under this section  
53 shall include a search of any information publicly available  
54 in an electronic format through a public index or single  
55 case display.

56       3. In order to facilitate the criminal history  
57 background check, the applicant shall submit a set of  
58 fingerprints collected pursuant to standards determined by  
59 the Missouri highway patrol. The fingerprints shall be used  
60 by the highway patrol to search the criminal history  
61 repository and shall be forwarded to the Federal Bureau of  
62 Investigation for searching the federal criminal history  
63 files.

64       4. The applicant shall pay the fee for the state  
65 criminal history record information pursuant to section  
66 43.530 and sections 210.900 to 210.936 and pay the  
67 appropriate fee determined by the Federal Bureau of  
68 Investigation for the federal criminal history record when  
69 he or she applies for a position authorized to have contact  
70 with pupils pursuant to this section. The department shall  
71 distribute the fees collected for the state and federal  
72 criminal histories to the Missouri highway patrol.

73       5. The department of elementary and secondary  
74 education shall facilitate an annual check of employed  
75 persons holding current active certificates under section  
76 168.021 against criminal history records in the central  
77 repository under section 43.530, the sexual offender  
78 registry under sections 589.400 to 589.426, and child abuse  
79 central registry under sections 210.109 to 210.183. The  
80 department of elementary and secondary education shall  
81 facilitate procedures for school districts to submit

82 personnel information annually for persons employed by the  
83 school districts who do not hold a current valid certificate  
84 who are required by subsection 1 of this section to undergo  
85 a criminal background check, sexual offender registry check,  
86 and child abuse central registry check. The Missouri state  
87 highway patrol shall provide ongoing electronic updates to  
88 criminal history background checks of those persons  
89 previously submitted, both those who have an active  
90 certificate and those who do not have an active certificate,  
91 by the department of elementary and secondary education.  
92 This shall fulfill the annual check against the criminal  
93 history records in the central repository under section  
94 43.530.

95         6. The school district may adopt a policy to provide  
96 for reimbursement of expenses incurred by an employee for  
97 state and federal criminal history information pursuant to  
98 section 43.530.

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

108         8. Any school official making a report to the  
109 department of elementary and secondary education in  
110 conformity with this section shall not be subject to civil  
111 liability for such action.

112         9. For any teacher who is employed by a school  
113 district on a substitute or part-time basis within one year

114 of such teacher's retirement from a Missouri school, the  
115 state of Missouri shall not require such teacher to be  
116 subject to any additional background checks prior to having  
117 contact with pupils. Nothing in this subsection shall be  
118 construed as prohibiting or otherwise restricting a school  
119 district from requiring additional background checks for  
120 such teachers employed by the school district.

121 10. A criminal background check and fingerprint  
122 collection conducted under subsections 1 to 3 of this  
123 section shall be valid for at least a period of one year and  
124 transferrable from one school district to another district.  
125 A school district may, in its discretion, conduct a new  
126 criminal background check and fingerprint collection under  
127 subsections 1 to 3 **of this section** for a newly hired  
128 employee at the district's expense. A teacher's change in  
129 type of certification shall have no effect on the  
130 transferability or validity of such records.

131 11. Nothing in this section shall be construed to  
132 alter the standards for suspension, denial, or revocation of  
133 a certificate issued pursuant to this chapter.

134 12. The state board of education may promulgate rules  
135 for criminal history background checks made pursuant to this  
136 section. Any rule or portion of a rule, as that term is  
137 defined in section 536.010, that is created under the  
138 authority delegated in this section shall become effective  
139 only if it complies with and is subject to all of the  
140 provisions of chapter 536 and, if applicable, section  
141 536.028. This section and chapter 536 are nonseverable and  
142 if any of the powers vested with the general assembly  
143 pursuant to chapter 536 to review, to delay the effective  
144 date, or to disapprove and annul a rule are subsequently  
145 held unconstitutional, then the grant of rulemaking

146 authority and any rule proposed or adopted after January 1,  
147 2005, shall be invalid and void.

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