

SECOND REGULAR SESSION

SENATE BILL NO. 827

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time February 5, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4145S.03I

AN ACT

To repeal section 160.261, RSMo, and to enact in lieu thereof two new sections relating to the use of corporal punishment in schools, with an existing penalty provision.

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

Section A. Section 160.261, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 160.261 and 160.274, to read as
3 follows:

160.261. 1. The local board of education of each school district shall
2 clearly establish a written policy of discipline[, including the district's
3 determination on the use of corporal punishment and the procedures in which
4 punishment will be applied]. **Each district's discipline policy shall prohibit
5 the use of corporal punishment and the use of spanking.** A written copy
6 of the district's discipline policy [and corporal punishment procedures, if
7 applicable,] shall be provided to the pupil and parent or legal guardian of every
8 pupil enrolled in the district at the beginning of each school year and also made
9 available in the office of the superintendent of such district, during normal
10 business hours, for public inspection. All employees of the district shall annually
11 receive instruction related to the specific contents of the policy of discipline and
12 any interpretations necessary to implement the provisions of the policy in the
13 course of their duties, including but not limited to approved methods of dealing
14 with acts of school violence, disciplining students with disabilities and instruction
15 in the necessity and requirements for confidentiality.

16 2. The policy shall require school administrators to report acts of school
17 violence to all teachers at the attendance center and, in addition, to other school

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

18 district employees with a need to know. For the purposes of this chapter or
19 chapter 167, "need to know" is defined as school personnel who are directly
20 responsible for the student's education or who otherwise interact with the student
21 on a professional basis while acting within the scope of their assigned duties. As
22 used in this section, the phrase "act of school violence" or "violent behavior"
23 means the exertion of physical force by a student with the intent to do serious
24 physical injury as defined in subdivision (6) of section 565.002 to another person
25 while on school property, including a school bus in service on behalf of the
26 district, or while involved in school activities. The policy shall at a minimum
27 require school administrators to report, as soon as reasonably practical, to the
28 appropriate law enforcement agency any of the following crimes, or any act which
29 if committed by an adult would be one of the following crimes:

- 30 (1) First degree murder under section 565.020;
- 31 (2) Second degree murder under section 565.021;
- 32 (3) Kidnapping under section 565.110;
- 33 (4) First degree assault under section 565.050;
- 34 (5) Rape in the first degree under section 566.030;
- 35 (6) Sodomy in the first degree under section 566.060;
- 36 (7) Burglary in the first degree under section 569.160;
- 37 (8) Burglary in the second degree under section 569.170;
- 38 (9) Robbery in the first degree under section 569.020;
- 39 (10) Distribution of drugs under section 195.211;
- 40 (11) Distribution of drugs to a minor under section 195.212;
- 41 (12) Arson in the first degree under section 569.040;
- 42 (13) Voluntary manslaughter under section 565.023;
- 43 (14) Involuntary manslaughter under section 565.024;
- 44 (15) Second degree assault under section 565.060;
- 45 (16) Rape in the second degree under section 566.031;
- 46 (17) Felonious restraint under section 565.120;
- 47 (18) Property damage in the first degree under section 569.100;
- 48 (19) The possession of a weapon under chapter 571;
- 49 (20) Child molestation in the first degree pursuant to section 566.067;
- 50 (21) Sodomy in the second degree pursuant to section 566.061;
- 51 (22) Sexual misconduct involving a child pursuant to section 566.083;
- 52 (23) Sexual abuse in the first degree pursuant to section 566.100;
- 53 (24) Harassment under section 565.090; or

54 (25) Stalking under section 565.225;
55 committed on school property, including but not limited to actions on any school
56 bus in service on behalf of the district or while involved in school activities. The
57 policy shall require that any portion of a student's individualized education
58 program that is related to demonstrated or potentially violent behavior shall be
59 provided to any teacher and other school district employees who are directly
60 responsible for the student's education or who otherwise interact with the student
61 on an educational basis while acting within the scope of their assigned
62 duties. The policy shall also contain the consequences of failure to obey
63 standards of conduct set by the local board of education, and the importance of
64 the standards to the maintenance of an atmosphere where orderly learning is
65 possible and encouraged.

66 3. The policy shall provide that any student who is on suspension for any
67 of the offenses listed in subsection 2 of this section or any act of violence or
68 drug-related activity defined by school district policy as a serious violation of
69 school discipline pursuant to subsection 9 of this section shall have as a condition
70 of his or her suspension the requirement that such student is not allowed, while
71 on such suspension, to be within one thousand feet of any school property in the
72 school district where such student attended school or any activity of that district,
73 regardless of whether or not the activity takes place on district property unless:

74 (1) Such student is under the direct supervision of the student's parent,
75 legal guardian, or custodian and the superintendent or the superintendent's
76 designee has authorized the student to be on school property;

77 (2) Such student is under the direct supervision of another adult
78 designated by the student's parent, legal guardian, or custodian, in advance, in
79 writing, to the principal of the school which suspended the student and the
80 superintendent or the superintendent's designee has authorized the student to be
81 on school property;

82 (3) Such student is enrolled in and attending an alternative school that
83 is located within one thousand feet of a public school in the school district where
84 such student attended school; or

85 (4) Such student resides within one thousand feet of any public school in
86 the school district where such student attended school in which case such student
87 may be on the property of his or her residence without direct adult supervision.

88 4. Any student who violates the condition of suspension required pursuant
89 to subsection 3 of this section may be subject to expulsion or further suspension

90 pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making
91 this determination consideration shall be given to whether the student poses a
92 threat to the safety of any child or school employee and whether such student's
93 unsupervised presence within one thousand feet of the school is disruptive to the
94 educational process or undermines the effectiveness of the school's disciplinary
95 policy. Removal of any pupil who is a student with a disability is subject to state
96 and federal procedural rights. This section shall not limit a school district's
97 ability to:

98 (1) Prohibit all students who are suspended from being on school property
99 or attending an activity while on suspension;

100 (2) Discipline students for off-campus conduct that negatively affects the
101 educational environment to the extent allowed by law.

102 5. The policy shall provide for a suspension for a period of not less than
103 one year, or expulsion, for a student who is determined to have brought a weapon
104 to school, including but not limited to the school playground or the school parking
105 lot, brought a weapon on a school bus or brought a weapon to a school activity
106 whether on or off of the school property in violation of district policy, except that:

107 (1) The superintendent or, in a school district with no high school, the
108 principal of the school which such child attends may modify such suspension on
109 a case-by-case basis; and

110 (2) This section shall not prevent the school district from providing
111 educational services in an alternative setting to a student suspended under the
112 provisions of this section.

113 6. For the purpose of this section, the term "weapon" shall mean a firearm
114 as defined under 18 U.S.C. 921 and the following items, as defined in section
115 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a
116 firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon,
117 a rifle, a shotgun, a spring gun or a switchblade knife; except that this section
118 shall not be construed to prohibit a school board from adopting a policy to allow
119 a Civil War reenactor to carry a Civil War era weapon on school property for
120 educational purposes so long as the firearm is unloaded. The local board of
121 education shall define weapon in the discipline policy. Such definition shall
122 include the weapons defined in this subsection but may also include other
123 weapons.

124 7. All school district personnel responsible for the care and supervision
125 of students are authorized to hold every pupil strictly accountable for any

126 disorderly conduct in school or on any property of the school, on any school bus
127 going to or returning from school, during school-sponsored activities, or during
128 intermission or recess periods.

129 8. Teachers and other authorized district personnel in public schools
130 responsible for the care, supervision, and discipline of schoolchildren, including
131 volunteers selected with reasonable care by the school district, shall not be civilly
132 liable when acting in conformity with the established policies developed by each
133 board, including but not limited to policies of student discipline or when reporting
134 to his or her supervisor or other person as mandated by state law acts of school
135 violence or threatened acts of school violence, within the course and scope of the
136 duties of the teacher, authorized district personnel or volunteer, when such
137 individual is acting in conformity with the established policies developed by the
138 board. Nothing in this section shall be construed to create a new cause of action
139 against such school district, or to relieve the school district from liability for the
140 negligent acts of such persons.

141 9. Each school board shall define in its discipline policy acts of violence
142 and any other acts that constitute a serious violation of that policy. "Acts of
143 violence" as defined by school boards shall include but not be limited to exertion
144 of physical force by a student with the intent to do serious bodily harm to another
145 person while on school property, including a school bus in service on behalf of the
146 district, or while involved in school activities. School districts shall for each
147 student enrolled in the school district compile and maintain records of any
148 serious violation of the district's discipline policy. Such records shall be made
149 available to teachers and other school district employees with a need to know
150 while acting within the scope of their assigned duties, and shall be provided as
151 required in section 167.020 to any school district in which the student
152 subsequently attempts to enroll.

153 10. [Spanking, when administered by certificated personnel and in the
154 presence of a witness who is an employee of the school district, or] **No school**
155 **district or charter school shall use corporal punishment or spanking to**
156 **discipline a student.** The use of reasonable force to protect persons or
157 property, when administered by personnel of a school district in a reasonable
158 manner in accordance with the local board of education's written policy of
159 discipline, is not abuse within the meaning of chapter 210. The provisions of
160 sections 210.110 to 210.165 notwithstanding, the children's division shall not
161 have jurisdiction over or investigate any report of alleged child abuse arising out

162 of or related to the use of reasonable force to protect persons or property when
163 administered by personnel of a school district [or any spanking administered in
164 a reasonable manner by any certificated school personnel in the presence of a
165 witness who is an employee of the school district] pursuant to a written policy of
166 discipline established by the board of education of the school district, as long as
167 no allegation of sexual misconduct arises from the [spanking or] use of force.

168 11. If a student reports alleged sexual misconduct on the part of a teacher
169 or other school employee to a person employed in a school facility who is required
170 to report such misconduct to the children's division under section 210.115, such
171 person and the superintendent of the school district shall report the allegation to
172 the children's division as set forth in section 210.115. Reports made to the
173 children's division under this subsection shall be investigated by the division in
174 accordance with the provisions of sections 210.145 to 210.153 and shall not be
175 investigated by the school district under subsections 12 to 20 of this section for
176 purposes of determining whether the allegations should or should not be
177 substantiated. The district may investigate the allegations for the purpose of
178 making any decision regarding the employment of the accused employee.

179 12. Upon receipt of any reports of child abuse by the children's division
180 other than reports provided under subsection 11 of this section, pursuant to
181 sections 210.110 to 210.165 which allegedly involve personnel of a school district,
182 the children's division shall notify the superintendent of schools of the district or,
183 if the person named in the alleged incident is the superintendent of schools, the
184 president of the school board of the school district where the alleged incident
185 occurred.

186 13. If, after an initial investigation, the superintendent of schools or the
187 president of the school board finds that the report involves an alleged incident of
188 child abuse other than [the administration of a spanking by certificated school
189 personnel or] the use of reasonable force to protect persons or property when
190 administered by school personnel pursuant to a written policy of discipline or that
191 the report was made for the sole purpose of harassing a public school employee,
192 the superintendent of schools or the president of the school board shall
193 immediately refer the matter back to the children's division and take no further
194 action. In all matters referred back to the children's division, the division shall
195 treat the report in the same manner as other reports of alleged child abuse
196 received by the division.

197 14. If the report pertains to an alleged incident which arose out of or is

198 related to [a spanking administered by certificated personnel or] the use of
199 reasonable force to protect persons or property when administered by personnel
200 of a school district pursuant to a written policy of discipline or a report made for
201 the sole purpose of harassing a public school employee, a notification of the
202 reported child abuse shall be sent by the superintendent of schools or the
203 president of the school board to the law enforcement in the county in which the
204 alleged incident occurred.

205 15. The report shall be jointly investigated by the law enforcement officer
206 and the superintendent of schools or, if the subject of the report is the
207 superintendent of schools, by a law enforcement officer and the president of the
208 school board or such president's designee.

209 16. The investigation shall begin no later than forty-eight hours after
210 notification from the children's division is received, and shall consist of, but need
211 not be limited to, interviewing and recording statements of the child and the
212 child's parents or guardian within two working days after the start of the
213 investigation, of the school district personnel allegedly involved in the report, and
214 of any witnesses to the alleged incident.

215 17. The law enforcement officer and the investigating school district
216 personnel shall issue separate reports of their findings and recommendations
217 after the conclusion of the investigation to the school board of the school district
218 within seven days after receiving notice from the children's division.

219 18. The reports shall contain a statement of conclusion as to whether the
220 report of alleged child abuse is substantiated or is unsubstantiated.

221 19. The school board shall consider the separate reports referred to in
222 subsection 17 of this section and shall issue its findings and conclusions and the
223 action to be taken, if any, within seven days after receiving the last of the two
224 reports. The findings and conclusions shall be made in substantially the
225 following form:

226 (1) The report of the alleged child abuse is unsubstantiated. The law
227 enforcement officer and the investigating school board personnel agree that there
228 was not a preponderance of evidence to substantiate that abuse occurred;

229 (2) The report of the alleged child abuse is substantiated. The law
230 enforcement officer and the investigating school district personnel agree that the
231 preponderance of evidence is sufficient to support a finding that the alleged
232 incident of child abuse did occur;

233 (3) The issue involved in the alleged incident of child abuse is

234 unresolved. The law enforcement officer and the investigating school personnel
235 are unable to agree on their findings and conclusions on the alleged incident.

236 20. The findings and conclusions of the school board under subsection 19
237 of this section shall be sent to the children's division. If the findings and
238 conclusions of the school board are that the report of the alleged child abuse is
239 unsubstantiated, the investigation shall be terminated, the case closed, and no
240 record shall be entered in the children's division central registry. If the findings
241 and conclusions of the school board are that the report of the alleged child abuse
242 is substantiated, the children's division shall report the incident to the
243 prosecuting attorney of the appropriate county along with the findings and
244 conclusions of the school district and shall include the information in the
245 division's central registry. If the findings and conclusions of the school board are
246 that the issue involved in the alleged incident of child abuse is unresolved, the
247 children's division shall report the incident to the prosecuting attorney of the
248 appropriate county along with the findings and conclusions of the school board,
249 however, the incident and the names of the parties allegedly involved shall not
250 be entered into the central registry of the children's division unless and until the
251 alleged child abuse is substantiated by a court of competent jurisdiction.

252 21. Any superintendent of schools, president of a school board or such
253 person's designee or law enforcement officer who knowingly falsifies any report
254 of any matter pursuant to this section or who knowingly withholds any
255 information relative to any investigation or report pursuant to this section is
256 guilty of a class A misdemeanor.

257 22. In order to ensure the safety of all students, should a student be
258 expelled for bringing a weapon to school, violent behavior, or for an act of school
259 violence, that student shall not, for the purposes of the accreditation process of
260 the Missouri school improvement plan, be considered a dropout or be included in
261 the calculation of that district's educational persistence ratio.

**160.274. No private school shall use corporal punishment or
2 spanking to discipline a student.**

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