

SECOND REGULAR SESSION

HOUSE BILL NO. 1937

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MACKEY.

3439H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 160.261, RSMo, and to enact in lieu thereof one new section relating to corporal punishment in schools.

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

Section A. Section 160.261, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.261, to read as follows:

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

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise

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.

18 interact with the student on a professional basis while acting within the scope of their
19 assigned duties. As used in this section, the phrase "act of school violence" or "violent
20 behavior" means the exertion of physical force by a student with the intent to do serious
21 physical injury as defined in section 556.061 to another person while on school property,
22 including a school bus in service on behalf of the district, or while involved in school
23 activities. The policy shall at a minimum require school administrators to report, as soon as
24 reasonably practical, to the appropriate law enforcement agency any of the following crimes,
25 or any act which if committed by an adult would be one of the following crimes:

- 26 (1) First degree murder under section 565.020;
- 27 (2) Second degree murder under section 565.021;
- 28 (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or
29 kidnapping in the first degree under section 565.110;
- 30 (4) First degree assault under section 565.050;
- 31 (5) Rape in the first degree under section 566.030;
- 32 (6) Sodomy in the first degree under section 566.060;
- 33 (7) Burglary in the first degree under section 569.160;
- 34 (8) Burglary in the second degree under section 569.170;
- 35 (9) Robbery in the first degree under section 569.020 as it existed prior to January 1,
36 2017, or robbery in the first degree under section 570.023;
- 37 (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017,
38 or manufacture of a controlled substance under section 579.055;
- 39 (11) Distribution of drugs to a minor under section 195.212 as it existed prior to
40 January 1, 2017, or delivery of a controlled substance under section 579.020;
- 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 as it existed prior to January 1,
44 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary
45 manslaughter in the second degree under section 565.027;
- 46 (15) Second degree assault under section 565.060 as it existed prior to January 1,
47 2017, or second degree assault under section 565.052;
- 48 (16) Rape in the second degree under section 566.031;
- 49 (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017,
50 or kidnapping in the second degree under section 565.120;
- 51 (18) Property damage in the first degree under section 569.100;
- 52 (19) The possession of a weapon under chapter 571;

53 (20) Child molestation in the first degree pursuant to section 566.067 as it existed
54 prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to
55 section 566.067, 566.068, or 566.069;

56 (21) Sodomy in the second degree pursuant to section 566.061;

57 (22) Sexual misconduct involving a child pursuant to section 566.083;

58 (23) Sexual abuse in the first degree pursuant to section 566.100;

59 (24) Harassment under section 565.090 as it existed prior to January 1, 2017, or
60 harassment in the first degree under section 565.090; or

61 (25) Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking
62 in the first degree under section 565.225;

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64 committed on school property, including but not limited to actions on any school bus in
65 service on behalf of the district or while involved in school activities. The policy shall require
66 that any portion of a student's individualized education program that is related to
67 demonstrated or potentially violent behavior shall be provided to any teacher and other
68 school district employees who are directly responsible for the student's education or who
69 otherwise interact with the student on an educational basis while acting within the scope of
70 their assigned duties. The policy shall also contain the consequences of failure to obey
71 standards of conduct set by the local board of education, and the importance of the standards
72 to the maintenance of an atmosphere where orderly learning is possible and encouraged.

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

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

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

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

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

93 4. Any student who violates the condition of suspension required pursuant to
94 subsection 3 of this section may be subject to expulsion or further suspension pursuant to the
95 provisions of sections 167.161, 167.164, and 167.171. In making this determination
96 consideration shall be given to whether the student poses a threat to the safety of any child or
97 school employee and whether such student's unsupervised presence within one thousand feet
98 of the school is disruptive to the educational process or undermines the effectiveness of the
99 school's disciplinary policy. Removal of any pupil who is a student with a disability is subject
100 to state and federal procedural rights. This section shall not limit a school district's ability to:

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

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

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

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

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

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

123 7. All school district personnel responsible for the care and supervision of students
124 are authorized to hold every pupil strictly accountable for any disorderly conduct in school or
125 on any property of the school, on any school bus going to or returning from school, during
126 school-sponsored activities, or during intermission or recess periods.

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

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

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

160 11. If a student reports alleged sexual misconduct on the part of a teacher or other
161 school employee to a person employed in a school facility who is required to report such
162 misconduct to the children's division under section 210.115, such person and the
163 superintendent of the school district shall report the allegation to the children's division as

164 set forth in section 210.115. Reports made to the children's division under this subsection
165 shall be investigated by the division in accordance with the provisions of sections 210.145 to
166 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this
167 section for purposes of determining whether the allegations should or should not be
168 substantiated. The district may investigate the allegations for the purpose of making any
169 decision regarding the employment of the accused employee.

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

176 13. If, after an initial investigation, the superintendent of schools or the president of
177 the school board finds that the report involves an alleged incident of child abuse other than
178 ~~[the administration of a spanking by certificated school personnel or]~~ the use of reasonable
179 force to protect persons or property when administered by school personnel pursuant to a
180 written policy of discipline or that the report was made for the sole purpose of harassing a
181 public school employee, the superintendent of schools or the president of the school board
182 shall immediately refer the matter back to the children's division and take no further action.
183 In all matters referred back to the children's division, the division shall treat the report in the
184 same manner as other reports of alleged child abuse received by the division.

185 14. If the report pertains to an alleged incident which arose out of or is related to ~~[a~~
186 ~~spanking administered by certificated personnel or]~~ the use of reasonable force to protect
187 persons or property when administered by personnel of a school district pursuant to a written
188 policy of discipline or a report made for the sole purpose of harassing a public school
189 employee, a notification of the reported child abuse shall be sent by the superintendent of
190 schools or the president of the school board to the law enforcement in the county in which the
191 alleged incident occurred.

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

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

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

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

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

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

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

216 (3) The issue involved in the alleged incident of child abuse is unresolved. The law
217 enforcement officer and the investigating school personnel are unable to agree on their
218 findings and conclusions on the alleged incident.

219 20. The findings and conclusions of the school board under subsection 19 of this
220 section shall be sent to the children's division. If the findings and conclusions of the school
221 board are that the report of the alleged child abuse is unsubstantiated, the investigation shall
222 be terminated, the case closed, and no record shall be entered in the children's division central
223 registry. If the findings and conclusions of the school board are that the report of the alleged
224 child abuse is substantiated, the children's division shall report the incident to the prosecuting
225 attorney of the appropriate county along with the findings and conclusions of the school
226 district and shall include the information in the division's central registry. If the findings and
227 conclusions of the school board are that the issue involved in the alleged incident of child
228 abuse is unresolved, the children's division shall report the incident to the prosecuting
229 attorney of the appropriate county along with the findings and conclusions of the school
230 board, however, the incident and the names of the parties allegedly involved shall not be
231 entered into the central registry of the children's division unless and until the alleged child
232 abuse is substantiated by a court of competent jurisdiction.

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

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

242 **23. As used in this section, "corporal punishment" means the infliction of pain**
243 **by an adult upon the body of a child as penalty for doing something that has been**
244 **disapproved of by the adult.**

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