#### SECOND REGULAR SESSION

# **SENATE BILL NO. 838**

### 99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROWDEN.

Pre-filed December 29, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

#### 5427S.01I

## AN ACT

To repeal sections 168.133 and 304.060, RSMo, and to enact in lieu thereof two new sections relating to transportation of school children.

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

Section A. Sections 168.133 and 304.060, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 168.133 and 304.060, to read as follows:

168.133. 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to  $\mathbf{2}$ 3 have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, 4 aides, paraprofessionals, assistants, secretaries, custodians, cooks, and 56 nurses. The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to 7 operate buses pending the result of the criminal background check. For bus 8 drivers, the school district shall be responsible for conducting the criminal 9 10 background check on drivers employed by the school district. For drivers 11 employed by a pupil transportation company, a municipality, or any other entity under contract with the school district, the criminal background check 12 13 shall be conducted pursuant to section 43.540 and conform to the requirements established in the National Child Protection Act of 1993, as amended by the 14 Volunteers for Children Act. Personnel who have successfully undergone a 15criminal background check and a check of the family care safety registry as part 16 17of the professional license application process under section 168.021 and who have received clearance on the checks within one prior year of employment shall 18

19 be considered to have completed the background check requirement. A criminal
20 background check under this section shall include a search of any information
21 publicly available in an electronic format through a public index or single case
22 display.

23 2. In order to facilitate the criminal history background check, the 24 applicant shall submit a set of fingerprints collected pursuant to standards 25 determined by the Missouri highway patrol. The fingerprints shall be used by the 26 highway patrol to search the criminal history repository and shall be forwarded 27 to the Federal Bureau of Investigation for searching the federal criminal history 28 files.

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

4. The department of elementary and secondary education shall facilitate 36 37 an annual check of employed persons holding current active certificates under 38 section 168.021 against criminal history records in the central repository under 39 section 43.530, the sexual offender registry under sections 589.400 to 589.475, and child abuse central registry under sections 210.109 to 210.183. The 40 department of elementary and secondary education shall facilitate procedures for 41 42 school districts to submit personnel information annually for persons employed by the school districts who do not hold a current valid certificate who are required 43by subsection 1 of this section to undergo a criminal background check, sexual 44 offender registry check, and child abuse central registry check. The Missouri 4546 state highway patrol shall provide ongoing electronic updates to criminal history background checks of those persons previously submitted, both those who have 47an active certificate and those who do not have an active certificate, by the 48 department of elementary and secondary education. This shall fulfill the annual 49 50check against the criminal history records in the central repository under section 5143.530.

52 5. The school district may adopt a policy to provide for reimbursement of 53 expenses incurred by an employee for state and federal criminal history 54 information pursuant to section 43.530.

55 6. If, as a result of the criminal history background check mandated by

this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

62 7. Any school official making a report to the department of elementary63 and secondary education in conformity with this section shall not be subject to64 civil liability for such action.

8. For any teacher who is employed by a school district on a substitute or part-time basis within one year of such teacher's retirement from a Missouri school, the state of Missouri shall not require such teacher to be subject to any additional background checks prior to having contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise restricting a school district from requiring additional background checks for such teachers employed by the school district.

9. A criminal background check and fingerprint collection conducted under subsections 1 and 2 of this section shall be valid for at least a period of one year and transferrable from one school district to another district. A school district may, in its discretion, conduct a new criminal background check and fingerprint collection under subsections 1 and 2 for a newly hired employee at the district's expense. A teacher's change in type of certification shall have no effect on the transferability or validity of such records.

Nothing in this section shall be construed to alter the standards forsuspension, denial, or revocation of a certificate issued pursuant to this chapter.

81 11. The state board of education may promulgate rules for criminal 82 history background checks made pursuant to this section. Any rule or portion of 83 a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with 84 and is subject to all of the provisions of chapter 536 and, if applicable, section 85 536.028. This section and chapter 536 are nonseverable and if any of the powers 86 vested with the general assembly pursuant to chapter 536 to review, to delay the 87 effective date, or to disapprove and annul a rule are subsequently held 88 unconstitutional, then the grant of rulemaking authority and any rule proposed 89 or adopted after January 1, 2005, shall be invalid and void. 90

304.060. 1. The state board of education shall adopt and enforce 2 regulations not inconsistent with law to cover the design and operation of all

school buses used for the transportation of school children when owned and 3 operated by any school district or privately owned and operated under contract 4  $\mathbf{5}$ with any school district in this state, and such regulations shall by reference be made a part of any such contract with a school district. The state board of 6 7 education may adopt rules and regulations governing the use of other vehicles 8 owned by a district or operated under contract with any school district in this 9 state and used for the purpose of transporting school children. The operator of 10 such vehicle shall be licensed in accordance with section 302.272, and such 11 vehicle shall transport no more children than the manufacturer suggests as appropriate for such vehicle. The state board of education may also adopt rules 12and regulations governing the use of authorized common carriers for the 13transportation of students on field trips or other special trips for educational 14 purposes. Every school district, its officers and employees, and every person 15employed under contract by a school district shall be subject to such 16 17regulations. The state board of education shall cooperate with the state transportation department and the state highway patrol in placing suitable 18 warning signs at intervals on the highways of the state. 19

20 2. Notwithstanding the provisions of subsection 1 of this section, 21 any school board in the state of Missouri may contract with any 22 municipality for the purpose of transporting school 23 children. Municipalities entering into any such contract shall comply 24 with the requirements of this section and sections 162.064, 162.065, 25 168.133, and 307.375.

26**3.** Any officer or employee of any school district who violates any of the 27regulations or fails to include obligation to comply with such regulations in any contract executed by him on behalf of a school district shall be guilty of 28misconduct and subject to removal from office or employment. Any person 2930 operating a school bus under contract with a school district who fails to comply 31with any such regulations shall be guilty of breach of contract and such contract shall be cancelled after notice and hearing by the responsible officers of such 32 33 school district.

[3.] 4. Any other provision of the law to the contrary notwithstanding, in
any county of the first class with a charter form of government adjoining a city
not within a county, school buses may bear the word "special".