

April 10, 2024

Honorable Members of the Missouri General Assembly
201 West Capitol Avenue
Jefferson City, MO 65101

In re: Senate Bill 727

Dear Honorable Members:

I write to you on behalf of my client, who is a citizen of the State of Missouri. As detailed below, we have grave concerns about Senate Bill 727 that appear to implicate the ability of home-schooling families to possess firearms in their homes. Currently, section 167.031(2) defines a “home school” within the scope of section 167.031 to 167.071. Where there are other references in the Revised Statutes to “home school,” (e.g., RSMo §452.375(2)(5)), those references point to this section, obviating the need for a global definition.

Senate Bill 727 keeps the same substance stated in §167.031.2 with one twist: rather than confining the definition to education, the new bill defines “home school” as a school “for purposes of state law.” See SB 727 at 85, Ins. 1-3 (referencing new section 167.012). This expanded scope creates implications that we do not believe reflect the General Assembly’s intent. While there are likely many implications, given the speed at which the General Assembly has undertaken to pass this Bill, we have, so far, only been able to identify some.

For example, 18 U.S.C. §921(a)(27), which relates to federal firearm offenses, defines a “school” to mean “a school which provides elementary or secondary education, *as determined under state law*.” (emphasis added). A “school zone” is in or within 1,000 feet of a school. 18 U.S.C. §921(a)(26). New section 167.012.1(1) states that a “home school is a school” that “Has as its primary purpose the provision of private or religious-based education.” See SB 727 at 85, Ins. 1-5. 18 U.S.C. §922(q)(2)(A) prohibits possession of a firearm in a “school zone.” Thus, there is a reasonable belief that a court may look at these definitions and determine that a home school is a private school under state law. If it does, federal law appears to prohibit firearms in the homes of Missouri parents who home school their children.

As another example, RSMo §571.030.1 prohibits the possession of a firearm in a school. As SB 727 defines a home school as a “school” for purposes of state law, this bill, if enacted, also appears to prohibit firearms in the homes of parents who home school their children.

Several of the supporters of SB 727 have voiced their opinion that the Bill does not prohibit guns in the homes of home-schooling families. For example, on April 8, 2024, in a post on X (formerly

Twitter), Rep. Richey stated that “No court would interpret these laws as prohibiting gun ownership in home schools” and that such an interpretation would be “flatly unconstitutional.” Moreover, in a letter dated April 8, 2024, the Division of Research of the Missouri Senate issued a statement that “SB 727 does not modify any state laws relating to the possession of firearms on school premises.” and that “the act will not make it illegal to possess a firearm in a home where students receive home school or FPE school instruction.” As drafted, however, there is nothing in SB 727 reflecting these positions.

As you know, the courts are responsible for statutory interpretation. Under state and federal jurisprudence, unambiguous language is given its plain meaning. Here, if a court determined that the language is unambiguous, home schools would be subject to all state and federal law that would otherwise affect schools, and the above evidence of legislative intent would be irrelevant.

And even if a court determines that the language is ambiguous, it must still engage in a murky analysis to determine the Legislature’s intent. *See generally* Matthew Davis, note, *Statutory Interpretation in Missouri*, 81 Mo. L. Rev. (2016), *available at*: <https://scholarship.law.missouri.edu/mlr/vol81/iss4/15/>. We are concerned that if SB 727 is passed as written, it will vest a court, not the General Assembly, with the ability to determine whether a home school is a “school” for purposes of state law, and if so, what effect that change will have as it regards the growing number of homeschooling families in Missouri.

Honorable Members of the House, we implore you to consider the unknown effects of transforming a home into a school for purposes of state law. **We respectfully ask that you add a clarifying amendment to this Bill that restricts the definition of “home school” to only those statutory sections for which it is intended to apply.** This amendment would make the legislative language plainer and less ambiguous, and would render the law consistent with the intent expressed by its supporters and the Division of Research. Moreover, as this would be a technical amendment, we do not anticipate any change of votes (unless, of course, the original intent *was* to restrict gun ownership in the homes of homeschooling families). No legislator should oppose a need to make legislation plainer and easier to understand.

Thank you for your tireless devotion to the people of the great state of Missouri, and for your attention to this matter. Please let me know if you have any questions.

Sincerely,

/s/ Jared M. Schneider

Jared M. Schneider