



## Home School Legal Defense Association

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Sheryl Schmidt

Families for Home Education

April 9, 2024

Re: MO SB 727 Firearms question, need for concern?

Dear Mrs. Schmidt:

While working as an Assistant Attorney General for John Ashcroft from 1980 to 1983, I learned a tremendous amount about how courts interpret laws. I understand that someone may be concerned that the current version of SB 727 would create a situation where it would be a crime (under RSMo 571.030) for a homeschool family to have a gun in their house. Based on what I learned during my years with John Ashcroft, I do not share that concern. Here is why.

FIRST. A rule of statutory interpretation says that if a statute can be interpreted two ways, one of which would result in a violation of the constitution and the other not creating that result, the interpretation that does *not* result in a constitutional violation must be used. Missouri has a very strong Constitutional provision protecting the right to keep and bear arms. Article I section 23 of Missouri’s Constitution says:

“That the right of every citizen to keep and bear arms, ammunition, and accessories typical to the normal function of such arms, in defense of his home, person, family and property, or when lawfully summoned in aid of the civil power, shall not be questioned. The rights guaranteed by this section shall be unalienable. Any restriction on these rights shall be subject to strict scrutiny and the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement.”

If someone were to argue that the language in SB 727 should be interpreted to make it a crime for a homeschool family to have a gun in their house, this rule of statutory interpretation would swoop in and say, “Nope, we are not going to interpret it that way because it would result in a violation of Article I, Section 23.”

SECOND. While the current definition of homeschooling in RSMo 167.031.2, which says a home school is “a school,” is introduced by the phrase, “As used in sections 167.031 to 167.071,” this certainly does not prohibit a court or the legislature from using that definition in contexts outside sections 167.031 to 167.071 *right now*. If a court needed to interpret a statute elsewhere in the code and needed a definition of “homeschool”, they would certainly use the one that already exists. In that sense, the current definition (saying a home school is “a school”) is *already* applicable to the entire Missouri code--including RSMo 571.030—and it has caused no problems.



THIRD. A “school” is not the same as a “school building.” Missouri’s current definition of “home school” as “a school” has nothing to do with a *building*. The definition does not mention a building, house, structure, residence, facility, plant, or even a home! It’s quite clear that the identity of a “home school” is completely independent of any “school building.” No building is needed to operate a home school!

When RSMo 571.030.1(10) makes it a crime to carry a firearm “into any school,” it clearly means a school that operates in a *school building*. If there is no school building, one can’t carry a firearm into it! Since there is no building connected by law to a home school, there is no “home school building” into which one could carry a firearm.

That same statute goes on to prohibit carrying a firearm “onto the premises of any function or activity sponsored or sanctioned by school officials or the district board.” Of course, there is no “district board” that applies to a home school. And state law does not designate any “school official” for a home school. In some states—Pennsylvania and Kansas for example—state law creates a specific home school official. But there is none for Missouri. A home school is run by parents, not “officials.”

Since state law does not establish any “school official” for a home school, and since a home school is not connected to a “district board,” this part of the law likewise can have no application to a home school.

FOURTH. When interpreting a law, courts always ask: “What did the legislature intend to accomplish?” Considering the huge amount of work that has gone into all the various drafts of SB 727, and the volumes of discussion and debate about it, there is no hint whatsoever that the legislature is intending to make it illegal for a home school family to keep a firearm in their home. I have no concern that a court would rule otherwise.

FIFTH. Courts agree that criminal statutes like RSMo 571.030 must be construed strictly (i.e., as narrowly as possible) against the State and liberally in favor of the person who has been accused. No one can be guilty of a crime based only on an implication in a law.

The idea that SB 727 (by making a home school “a school” throughout the entire code) would make the criminal penalties of RSMo 571.030 apply to home schoolers with guns in their homes is supported, at best, only by a long, thin string of assumptions and implications. Construing RSMo 571.030 strictly against the state, and liberally toward someone accused, conclusively nails the issue, in my view.

I welcome the discussion, but I do not share the concerns that have been expressed on this topic.

Sincerely,

A handwritten signature in black ink that reads "Scott A. Woodruff". The signature is fluid and cursive, with the first name "Scott" being particularly prominent.

Scott A. Woodruff,  
Director of Legal and Legislative Advocacy, Home School Legal Defense Association