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SECTION I. SHORT TITLE.

This Act shall be called the Make Homeschool Safe Act.

SECTION II. FINDINGS AND PURPOSE.

- 1. **FINDINGS.*** The Legislature finds that:
 - a. There are a number of children being homeschooled in [STATE]. The true number of homeschooled children is likely to remain unknown without adequate notification and oversight.
 - b. The laws of [STATE] do not currently provide adequate protection for homeschooled children, leaving them vulnerable to child abuse and educational neglect.
 - c. It is in the interest of the Legislature to ensure homeschooled children are safe and receive a sufficient education.

*DRAFTING NOTE

Consider modifying these findings to be specific to your state, to the extent possible. If there are studies of homeschooling in your state, they can be incorporated here to show that homeschooling without oversight can lead to abuse. Also consider referencing any cases from the Homeschooling's Invisible Children database that occurred in your state.

2. **PURPOSE**. This law is enacted to affirm and protect homeschooled children's right to a comprehensive education and a safe home environment.

*DRAFTING NOTE (continued on the next page)

Different jurisdictions define homeschooling in a variety of ways, and many states offer more than one legal option for homeschooling. We believe that all of these legal options for homeschooling are compatible with effective oversight of homeschooling and that each can coexist with effective protections for homeschooled students. Enacting the legal oversight in this Model Legislation need not require changing a state's legal categorization of homeschooling. The most important thing is to make sure the same degree of accountability exists in every legal option for homeschooling in your state.

Here are some general recommendations to keep in mind based on your state's homeschool options:

Homeschool Statutes: If your state has a dedicated homeschool statute, authority over
homeschooling may rest with the local school district or the state department of education. You
may want to consider amending your code to specify whether oversight is provided at the state or
local level.

*DRAFTING NOTE (continued)

- Individual Private School: If your state allows homeschools to function as individual private schools, you should ensure that oversight measures specifically apply to this category of private schools by creating a separate definition of private schools composed of a single family in an individual home.
- **Private Umbrella School:** If your state allows parents to enroll children in an existing private or church school and educate them at home, you should consider clearly defining these umbrella schools and ensuring the oversight measures in this Model Legislation apply to them.

SECTION III. DEFINITIONS.*

The following definitions apply in this section:

*DRAFTING NOTE

Align these definitions as needed with your state's existing educational code and statutes governing homeschooling options.

- 1. **Homeschool**: the primary or secondary education of a student in the home or otherwise in a physical location outside of a public or nonpublic school.
 - a. For the avoidance of doubt, a "homeschool" qualifies as a "school" under the laws of [State], including for purposes of [reference to existing code provisions related to subjects required to be taught in schools and immunization/medical examinations required for school students].
- 2. **Home educator**: any person operating a homeschool or providing primary instruction to a homeschooled child, such as the child's parent or legal guardian, or other such person having primary responsibility for the child.
- 3. **Homeschooled child** and **homeschooled student** are used interchangeably herein and shall have the same meaning: a student being educated in a homeschool.
- 4. **Qualified educational professional**: a [THIS STATE] certified teacher as defined by [EXISTING STATE LAW]* for the grade level of the homeschooled child, who is not related by blood or marriage to either the homeschooled child or the home educator and who is subject to [the mandatory reporting law of STATE].
- 5. **Satisfactory academic progress**: appropriate advancement through a sequentially progressive instructional program, including at least mathematics, English language arts, science, and social studies, at a level commensurate with the student's age, developmental level, and abilities.
- 6. **Superintendent**: the superintendent of schools of the district where the homeschool is located.



*DRAFTING NOTE

It may be appropriate in your state to include other educational professionals who are not state-certified teachers. In any case, it is important that a "qualified educational professional" be (1) a mandatory reporter and (2) determined or selected by someone who is not related to the homeschooled child or home educator (i.e. a superintendent or state board of education official).

SECTION IV. NOTIFICATION OF HOMESCHOOL ENROLLMENT.

- 1. Any home educator or prospective home educator electing to enroll their child in a homeschool, at the beginning of each school year or within 30 days prior to the beginning of initial enrollment in the homeschool, shall furnish the superintendent:
 - a. The name, age, and grade level of each child enrolled in the homeschool who is not in regular attendance at a public or nonpublic school and, for initial enrollment in a district, the identifying documents described in Section X(1) (a).
 - b. The name, address, and contact information of the home educator who is providing instruction in the homeschool, and (if different) the address where the primary instruction of the homeschool will take place (including an online or umbrella school, if applicable).
 - c. The name, address, and contact information of each parent or legal guardian of the homeschooled student.
 - d.The number or name of the school district and the city or township and county in which the home educator resides.*

*DRAFTING NOTE

Necessary if homeschooling is administered at the state level.

- e. The immunization or immunization exemption documentation required by Section XII(2) of this Chapter.
- f. The medical documentation required by Section XIII(3) of this Chapter.
- 2. Any home educator who operated a homeschool in another state, and has moved into the state of [STATE] and intends to continue to operate a homeschool, must notify the superintendent of such intent and provide the information to the superintendent as required in subsection (1) of this section.

3. If a home educator fails to follow the requirement of subsection (1), the superintendent shall provide written notice of the violation to the home educator. The home educator shall have 30 days from the date of the superintendent's notice to comply with subsection (1). If the home educator does not comply with subsection (1) within 30 days, then the home educator shall immediately enroll the child in public or private school, and superintendent shall report the omission to the [local child protective services], which shall initiate an investigation into the safety of the child.

SECTION V. QUALIFICATIONS OF HOME EDUCATORS.

- 1. Except as provided by subsection (2), any home educator shall possess:
 - a.a high school diploma,
 - b.a General Education Development Certificate (GED),
 - c.a state certificate received by the person after passing a state-authorized examination that the state recognizes as the equivalent of a high school diploma, or
 - d.an academic transcript demonstrating successful completion of at least a two-year post-secondary program that is acceptable for full credit toward a bachelor's degree.
- 2. A person lacking the qualifications required by subsection (1) may act as a home educator under the supervision of a qualified educational professional, subject to the following requirements:
 - a. The qualified educational professional shall meet in-person with the home educator and the homeschooled child at least monthly, and on average for at least one hour per week, to:
 - i. assist in instructing the child;
 - ii. plan academic objectives for the child;
 - iii. oversee the quality of academic curriculum; and
 - iv. review the child's academic progress.
 - b.If the qualified educational professional believes the homeschooled student is not making satisfactory academic progress, they shall submit a request for an assessment of the homeschool pursuant to Section VIII of this Chapter.
- 3. If a home educator no longer fulfills the requirements of subsections (1) and (2), the educator shall enroll the child in a school within 30 days.*



*DRAFTING NOTE

This amount of time is intended to give a homeschool educator time to comply with subsections (1) and (2), but should be sooner than the following school year to ensure the homeschooled student doesn't fall behind.



SECTION VI. SUBJECTS AND INSTRUCTION IN A HOMESCHOOL.*

*DRAFTING NOTE

This section may be drafted (as below) to incorporate by reference all subjects required to be taught in public schools of the State. This is the preferred version because the homeschooling requirement will stay in sync if the legislature updates the public school statute. Alternatively, this section can also be drafted to specify the minimum subjects the Legislature deems sufficient for a homeschool.

Preferred version

1. A home educator shall ensure a homeschooled child receives instruction in the same branches of study required to be taught in the public schools of [STATE], pursuant to [existing state law]. Instruction should be provided in a sequentially progressive curriculum at a level commensurate with the student's ability. The instruction shall have a duration of at least 875 hours each year.*

*DRAFTING NOTE

Some states have mandatory instruction time measured annually (Wisconsin) or even daily (North Dakota). Because we believe homeschooling should allow for positive flexibility and child-led learning, we recommend including hours of instruction as a guideline for educators rather than a rigid requirement.

2. Nothing in this section shall be construed to require a home educator to use the same textbooks or methods as public schools in the [STATE].

Alternative version

- 1. A home educator shall ensure a homeschooled child receives instruction in the branches of study required to be taught in the public schools of [STATE]. Instruction should be provided in a sequentially progressive curriculum at a level commensurate with the student's ability. The instruction should have a duration of at least 875 hours each year.
- 2. Nothing in this section shall be construed to require a home educator to use the same textbooks or methods as public schools in the [STATE].
- 3. At minimum, each homeschool shall include instruction in the following branches of study:

For elementary and middle school (grades 1 to 6, inclusive):

- 1. English, including language arts, reading, English grammar, spelling, composition, and creative writing;
- 2. Mathematics, including concepts, operational skills, and problem solving;
- 3. Social studies, including:
 - a. United States history;
 - b. Geography;
 - c. Government; and
 - d. The history of [the State].
- 4. Science, including the biological and physical aspects and the processes of experimental inquiry;
- 5. Physical education, with emphasis upon the physical activities for the student that may be conducive to health and vigor of body and mind;
- 6. Health, including instruction in the principles and practices of individual, family, and community health;
- 7. Visual and performing arts, such as dance, music, theatre, and other visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.
- 8. Computer science; and
- 9. Other studies that may be prescribed by [the governing board of the State].

For high school (grades 7 to 12, inclusive):

- Four units of English language arts from a sequence that includes literature, composition, and speech;
- 2. Four units of mathematics, including:
 - a. One unit of algebra II; and
 - b. One unit for which algebra II is a prerequisite;



- 3. Four units of science, including:
 - a. One unit of physical science; andb.One unit of biology;
- 4. Four units of social studies, including:
 - a. One unit of world history;
 - b. One unit of United States history;
 - c. Two units on United States government, economics, and/or democracy;
- 5. One-half unit of health;
- 6. One half-unit of physical education during each school year;
- 7. Two units of fine arts:
- 8. Two units of the same world language;
- 9. One unit of computer science;
- 10. Two units of an advanced placement course, a dual-credit course, or career and technical education;
- 11. Any other minimum requirements for high school graduation set forth by [the governing board of the State].



SECTION VII. ACCESS TO PUBLIC SCHOOLS.

1. A homeschooled student who wishes to participate in any curricular or extracurricular activity in a public school shall be eligible to enroll part-time in any public school to which the student would be entitled to enroll full-time.*A homeschooled student shall have the same rights as a student enrolled full-time in the public school of the school district to access the services and programs of the public school where the child is zoned. Public schools may not discriminate against homeschooled students who enroll in public school.

*DRAFTING NOTE

This language can be adapted to address any concerns in your state about the fairness of homeschooled students participating in athletics or other extracurricular activities. Homeschooled students should enjoy the same rights as public school students when it comes to choosing a school. Homeschooling should not be used as a work-around for student athletes to gain access to schools or programs to which they otherwise are not entitled to participate.



- 2. Any homeschooled student may enter into any curricular or extracurricular program in the public school available to other students, subject to compliance with the provisions of this Chapter and the same responsibilities and standards of behavior and performance that apply to any student's participation in the activity, except that the academic eligibility requirements for participation in extracurricular activities are as provided for herein:
 - a. Oversight of academic standards relating to participation in extracurricular public school activities shall be the responsibility of the home educator. In order for any homeschooled student to participate in extracurricular public school activities for which public school students must demonstrate academic proficiency or eligibility, the homeschooled student shall demonstrate satisfactory academic progress as defined in Section VIII of this Chapter.
 - b. School districts shall provide to homeschooled students who wish to participate in curricular or extracurricular activities the opportunity to take state standardized tests in order to demonstrate satisfactory academic progress pursuant to Section VIII(2)(b) of this Chapter.
- 3. A public school student who has been unable to maintain academic eligibility is ineligible to participate in extracurricular public school activities as a homeschooled student for the duration of the school year in which the student becomes academically ineligible.
- 4. A formerly homeschooled student who enrolls full-time in public school shall be awarded academic credits for time spent homeschooled to the extent practicable. Credits for time spent homeschooled shall be awarded based on an assessment of the student's academic progress in accordance with Section VIII and the student's academic records as described in Section X of this Chapter.
- 5. A homeschooled student can become eligible for a public school diploma so long as they enroll in public school at least nine months before graduation.



SECTION VIII. ASSESSMENT OF A HOMESCHOOL AND INTERVENTION ON BEHALF OF THE HOMESCHOOLED CHILD.

- 1. On an annual basis, or as provided for in Section V(2)(b) of this Chapter, the academic progress of each homeschooled student shall be assessed to ensure that the student is making satisfactory academic progress.
- 2. A home educator shall submit to the superintendent an academic assessment for each homeschooled student enrolled in a homeschool pursuant to this Chapter. The assessment shall be accomplished through any one (or more) of the options described in subsections a) through c) of this section. The assessment shall be submitted no later than 30 days* following the end of the school year as defined by the superintendent.

*DRAFTING NOTE

This can be a date certain or a relative date based on a specific number of days following the academic year. In either case, it should be long enough to allow a homeschool educator to compile the required information, but short enough to permit the school district to assess the student's academic progress before the beginning of the next school year.

- a. Educational portfolio.
 - i. An educational portfolio is a set of records and materials that documents a child's educational progress during the preceding year. The portfolio shall consist of the following: a log, made contemporaneously with the instruction, which designates by title the curricular materials used; samples of any writings, worksheets, workbooks or creative materials used or developed by the child; and the home educator's individualized assessment of the child's academic progress in each of the subject areas of instruction. The scores on either state standardized tests or normreferenced achievement tests may be included in an educational portfolio.
- b. Participation in the state-organized standardized tests administered to children in that child's grade in the public schools.
- c. Participation in a commercially published norm-referenced achievement test appropriate for the student's grade level.
 - i. The test used may be any test from a list of tests approved by the [STATE] Department of Education [or other state agency].
 - ii. The student must be tested in at least math and English Language Arts [and/or other selected subject matters].The testing must be administered by a qualified educational professional who is qualified to administer the test.



- iii. The testing must be administered by a qualified educational professional who is qualified to administer the test.
- iv. The testing must be administered in an appropriate location that is not the student's home.

3. Review of Assessment

- a. The assessment submitted to the superintendent shall be reviewed by a qualified educational professional chosen by the home educator from a list of such professionals designated by the superintendent. The qualified educational professional reviewing the child's portfolio must be trained in reviewing homeschool assessments. The review will be completed at no cost to the homeschool.
- b. As part of the review process, the reviewer shall meet in person with the student at a mutually agreed upon location. The reviewer shall, within not more than 60 days from the date of submission [or other selected time frame], determine whether the assessment reflects satisfactory academic progress and notify the superintendent and the home educator of the determination. The reviewer shall prepare a written narrative supporting the
- c. reviewer's decision.

 Upon receipt of the reviewer

Upon receipt of the reviewer's determination, the superintendent* shall either accept or reject the reviewer's determination within 30 days of the reviewer's determination. If the reviewer has determined the child is making satisfactory academic progress and the superintendent accepts that decision, the homeschool may continue without intervention.

*DRAFTING NOTE

Funding for this legislation is key to its success and ability to protect homeschooled children from abuse and neglect. We appreciate that this model legislation may represent a significant expansion of oversight infrastructure within a state's department of education and/or local superintendents' offices. We firmly believe that the result is worth the cost to protect the lives and education of homeschooled children.

4. Intervention and Remediation

- a. If the reviewer of an educational assessment determines that the student has not made satisfactory academic progress, and the superintendent accepts that decision, then the homeschool is placed on probation pursuant to subsection e) below.
- b. If the reviewer of an educational assessment determines that the student has made satisfactory academic progress and the superintendent rejects that decision, then the homeschool is placed on probation pursuant to subsection e) below.



- c. If a student who has taken the state's standardized tests has failed to score at the level of [insert here terminology used by the state, such as basic, proficient, etc.] in any of the subjects tested, the homeschool will be placed on probation pursuant to subsection e) below.
- d. If a student who has taken a norm-referenced achievement test has failed to score at the 25th percentile or higher on each of the subjects tested, the homeschool will be placed on probation pursuant to subsection e) below.
- e. Probation. A homeschool may continue to operate while on probation, pursuant to the terms of this subsection.
 - i. If a homeschool has been placed on probation, a student support meeting will be convened within 30 days of that placement to allow for further assessment of the child's academic progress and the needs of the homeschool. The superintendent will appoint one or more qualified educational professionals to meet with the home educator to conduct the student support meeting.
 - ii. At the student support meeting, the home educator will have the opportunity to present additional educational records to show that the child is making satisfactory academic progress. If the qualified educational professional determines that the child is making satisfactory academic progress and that the home educator does not need additional support to continue to homeschool the child, the educational professional will document the decision in an updated narrative report and will notify the superintendent and the home educator of that decision. Upon receipt of the decision, the superintendent will either accept or reject the decision. If the decision is accepted, the homeschool is removed from
 - iii. probation.
 - If the qualified educational professional determines that the child is not making satisfactory academic progress, the educational professional will work collaboratively with the home educator to create a remediation plan. A remediation plan is a one-year plan that includes measurable short- and long-term academic goals, accomplishment of which will reflect satisfactory academic progress. The remediation plan shall identify the
 - iv. supports that are needed for the home educator to accomplish the plan. The qualified educational professionals working with the homeschool will review the child's progress on the identified goals no less than twice during the term of the one-year remediation plan, at mutually agreeable times and places. The educational professionals shall assist the home educator in making any adjustments to the remediation plan that are deemed necessary to support the child in making academic progress.



- v. At the end of the one-year period identified in the remediation plan, the qualified educational professionals working with the homeschool will review the child's educational records, test scores, and other materials to determine if the child is making satisfactory academic progress. The educational professional shall prepare a written narrative report supporting the professional's decision. The professional shall provide the report to the home educator and the superintendent. The superintendent shall either accept or reject the decision.
 - 1. If the educational professional determines the child is making satisfactory educational progress and the superintendent accepts the decision, the homeschool is removed from probation.
 - 2. If the educational professional determines the child is not making satisfactory educational progress and the superintendent rejects the decision, the homeschool is removed from probation.
 - 3. If the educational professional determines the child is not making satisfactory educational progress and the superintendent accepts the decision, the homeschool remains on probation for an additional year and repeats the process described in subsections (iii) (vii) of this section.
- vi. If the qualified educational professional determines the child has not made satisfactory academic progress by the end of the second year of probation, and the superintendent accepts that decision, the child must be enrolled in public or nonpublic school. The superintendent shall notify the home educator of the date by which such enrollment must be accomplished. The child must remain enrolled in public or nonpublic school for at least two years, unless a high school diploma is awarded sooner, before the child may be homeschooled again. If the child does not enroll in school or remain enrolled as required, the child shall be considered truant pursuant to [STATE truancy statute].
- f. If, at any time during the probation process, the superintendent determines that the home educator is not cooperating with the educational professional assigned to convene the student support meeting or is not implementing the remediation plan in good faith, the superintendent may require the child to be enrolled in public or nonpublic school and remain enrolled for at least two years, unless a high school diploma is awarded sooner. If the child does not enroll in school or remain enrolled as required, the child shall be considered truant.



g. At any time during a period of probation, the home educator may request a hearing before the Board of Education [state or local, depending on jurisdiction; or other appropriate body] to challenge the determination that the child is not making satisfactory academic progress, that the homeschool must operate under probation, or that the child must be enrolled in school. The hearing shall be scheduled within 30 days [or other selected time period]* of the date the request for a hearing was made.

*DRAFTING NOTE

This notation should be repeated elsewhere in the model legislation where timeframes are proposed as options for the drafter.

- i. At the hearing before the Board of Education, the home educator may present evidence related to the academic progress of the child, the need for continued probation, or the requirement of school enrollment. The superintendent or the superintendent's designee may present evidence to support the superintendent's decision regarding the lack of satisfactory academic progress, the need for continued probation, or the requirement of school enrollment. After considering the evidence presented, the Board of Education shall determine whether the child is making satisfactory academic progress, whether continued probation of the homeschool is warranted, or whether the child must be enrolled in school. The decision of the Board of Education is final.
- ii. The final decision of the Board of Education may be further reviewed pursuant to the provisions of [citation to the appropriate statute allowing for judicial review of final administrative decisions in the state].
- 5. If the assessment described in subsection 1) is not provided as required, the homeschool shall be on probation immediately following the deadline. The superintendent shall provide written notice of the probationary status to the home educator. The home educator shall have 30 days from the date of the superintendent's notice to submit the required assessment. If the assessment is not submitted within 30 days, then the superintendent shall report the omission to the [local child protective services], which shall initiate an investigation into the safety of the child.
- 6. The Secretary of the Department of Education [or other appropriate agency/official] is authorized to promulgate regulations to implement this section.



SECTION IX. STUDENTS WITH DISABILITIES.

Within the state's special education statute:

- 1. "School age child with a disability" is a school age child in any school setting, including a homeschool, who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, requires special education services to make satisfactory academic progress.
- 2. The local education agency's Child Find program shall identify the processes by which children in non-public schools and homeschools will be identified for evaluation.

Within the state's homeschooling statute:

- 1. Any home educator who suspects that a homeschooled child has a disability that affects learning may request that the child be evaluated by a multidisciplinary assessment team convened by the superintendent.
- 2. Within a reasonable period of time of the request, the superintendent shall convene a multidisciplinary team to conduct the evaluation. The team, with input from the home educator, shall determine if the child is a child with a disability, as defined [in the state special education statute, which will say something like, "'a child with a disability' is a child 1) who is aged 3 21; 2) who is identified as having Autism Spectrum Disorder, Deaf-Blindness, Deafness, Developmental Delay, Emotional Disability, Hearing Impairment, Intellectual Disability, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment. Specific Learning Disability, Speech Language Impairment, Traumatic Brain Injury, or Visual Impairment; 3) whose disability has an adverse effect on educational performance; and 4) who requires specially designed instruction.]
- 3. If the child is determined to be a child with a disability, then the home educator must develop, either privately or through the school district, an educational services plan. The educational services plan must
 - a. recite the ways in which the child's disability is interfering with the child's satisfactory academic progress;
 - b. set reasonable annual goals for satisfactory academic progress in light of the child's disability;
 - c. identify how progress on the annual goals will be measured, which shall include any testing modifications needed;



- d.identify the special education services that are needed to support the child in meeting the goals;
- e. identify how, where, by whom, and how often the identified special education services will be delivered.
- 4. The superintendent shall appoint qualified personnel to serve as the child's services plan team. The team shall review the services plan developed by the home educator to determine its sufficiency to foster appropriate progress. If the team determines that the plan is not sufficient to foster appropriate progress, the team shall assist the home educator in amending the plan.
- 5. At the request of the homeschooled child's parent or legal guardian, the special education services described in the services plan shall be provided to the child, without cost, by school district personnel.* Otherwise, a home educator may, if qualified, directly provide the services to the child or contract privately with qualified personnel to provide the identified special education services.

*DRAFTING NOTE

Funding for this legislation is key to its success and ability to protect homeschooled children from abuse and neglect. We appreciate that this model legislation may represent a significant expansion of oversight infrastructure within a state's department of education and/or local superintendents' offices. We firmly believe that the result is worth the cost to protect the lives and education of homeschooled children.

- 6. At least once per year, in addition to the academic assessment produced pursuant to Section VIII of this provision [or section, chapter, etc., as is appropriate for the statutory scheme], the home educator must produce a report on the child's progress toward the annual goals identified in the services plan. The report shall be reviewed by the services plan team. If the team determines the child has not made appropriate progress toward the identified goals, the team shall assist the home educator in revising the educational approach and provision of services to better allow for satisfactory academic progress.
- 7. Regardless of the team's determination regarding the progress of the child, the home educator shall develop a new services plan each year during which the child's disability persists in impacting the child's satisfactory academic progress.



8. At any time either the home educator or the services plan team suspect that the child is no longer a child with a disability, the child shall be reevaluated by a multidisciplinary team. If the team determines the child is no longer a child with a disability, then the requirements of this part will no longer apply. If the multidisciplinary team determines that the child continues to be a child with a disability, then the provisions of this part remain in effect.

SECTION X. RECORDKEEPING.

1. Identifying and Immunization Documents

- a. Upon initial enrollment of a student in a homeschool pursuant to this Chapter, the home educator shall provide to the superintendent a certified copy of the child's birth certificate or, if a birth certificate is not available, other reliable proof of the student's identity and age, which may include an application for a social security number, a baptismal certificate, original school registration records, and an affidavit explaining the inability to provide a copy of the birth certificate;
- b.On an annual basis, for each student they homeschool, the home educator shall submit immunization or immunization exemption documentation required by Section XII(2) of this Chapter.

2. Academic Records

a. A home educator shall maintain adequate academic records for each student they homeschool. "Adequate academic records" shall mean documents sufficient to enable assessment of a homeschool as described in Section VIII of this Chapter.

3. Record Maintenance and Access

- a. The records described in Paragraphs 1 and 2 must be maintained by the home educator for the entire duration that the student is being instructed in a homeschool and for at least three years after.
- b. The records described in Paragraphs 1 and 2 that are submitted to the superintendent must be maintained confidentially by the superintendent [or Department of Education] until the student's 21st birthday.
 - i. Upon request in writing from either the homeschooled student or the home educator, the superintendent or [Department of Education contact] shall make available all records pertaining to the homeschooled student.



SECTION XI. DISQUALIFICATION OF HOME EDUCATOR.

1. Disqualifying Criminal Convictions.

- a. No person may operate a homeschool if such person has been convicted of a crime described in this section. If a homeschool is in operation at the time of the conviction, a home educator must, within five working days after the conviction, enroll the homeschooled children in a public or approved nonpublic school pursuant to [State statute]. The person convicted of the crimes listed here may not thereafter operate a homeschool. Furthermore, a home educator may not operate a homeschool if any other adult residing in the home or homeschool setting has been convicted of a crime described in this subsection.
- b. The following crimes are disqualifying offenses:
 - i. Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree;
 - ii. Felonious assault on a child, child abuse in any degree, or an attempt to commit child abuse in any degree;
 - iii. Cruelty, torture, or indecent exposure involving a child;
 - iv. Distribution of a controlled substance to a minor;
 - v. Recruiting or inducing a minor to commit a felony;
 - vi. Assault with the intent to commit murder;
 - vii. Armed assault:
- viii. First or second degree murder;
 - ix. Kidnapping, if the victim was an individual less than 18 years of age;
 - x. Any other violent felony in which the victim was an individual less than
 - xi. 18 years of age;
- xii. Human trafficking;
- xiii. Child abandonment;
- xiv. The commission of a domestic violence offense in the presence of a child;
- xv. A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States; Any other crime not listed in this subsection, if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.
- c. Should a person convicted of any disqualifying offense under this Section wish to operate a homeschool, the person may request review by the [Family Court/Juvenile Court]. In order to operate a homeschool, the person must show by clear and convincing evidence that the child is not endangered by being in a homeschool.



2. Other Disqualifying Conduct.

- a. No person may operate a homeschool if such person has been found to have engaged in child abuse or neglect as described in [STATE statute]. Removal of a child from a home due to abuse or neglect shall qualify as a finding of child abuse or neglect for purposes of this Section.
- b. No* person may withdraw a child from enrollment in a public or nonpublic school to operate a homeschool following an investigation by the [Department of Social Services/Child Welfare] of potential abuse or neglect of a child, within the past 3 years, regardless of the outcome of the investigation, unless the following requirements are met:

*DRAFTING NOTE

This is a crucial provision for the protection of homeschooled children. Withdrawal from school is a prominent trend among cases of child abuse. Over one-third (37%) of abuse cases in the Homeschooling's Invisible Children database involve withdrawal from school. Nearly half (46%) of fatality cases involve withdrawal from school. Evidence suggests that abusive caregivers use withdrawal from school as a tactic to evade suspicion from mandated reporters and to escalate abuse in ways that would not be possible if the child were still enrolled in school.

- i. A representative of the [Department of Social Services/Child Welfare Agency] completes a risk assessment of the home situation and makes a finding that the child will not be endangered by enrollment in a homeschool;
- ii. The home educator agrees to a continued monthly risk assessment of any child enrolled in the homeschool, for a period of not less than [12 months] following the child's disenrollment from public or nonpublic school, and thereafter periodically at the discretion of the [Department of Social Services/Child Welfare Agency];
- iii. Should a finding be made by the [Department of Social Services/Child Welfare] that the child would be endangered by enrollment in the homeschool, then the home educator must re-enroll the child in a public or nonpublic school. Following such a finding of endangerment, the home educator may request review of the finding by petition to the [Family Court/Juvenile Court], pursuant to [insert appropriate statutory provision]. In order to operate a homeschool, the home educator must show by clear and convincing evidence that the child is not endangered by being in a homeschool.



SECTION XII. IMMUNIZATION.

- 1. A home educator shall ensure that each homeschooled child is compliant with the same requirements for immunization as a student in public school, as described in [reference state immunization requirements for public schools], provided that homeschooled children may qualify for the same exemptions provided for in [same reference].
- 2. At the beginning of a school year, or within 30 days prior to an initial enrollment in a homeschool, a home educator shall submit to the superintendent documentation, from the [department of health] or a licensed medical professional who is not be related by blood or marriage to the home educator or the homeschooled child, documentation that the homeschooled child has received the immunizations or immunization exemption required by subsection (1).

*DRAFTING NOTE

Many state immunization statutes currently contain exceptions for home education programs. To ensure consistency, these exceptions must be removed from the general immunization statute to avoid creating a loophole bypassing this provision.

SECTION XIII. MEDICAL CARE.*



Regular medical screenings are vital to protecting abused homeschooled children because they rarely, if ever, are seen by mandatory reporters, unlike children attending public or private school. However, if necessary, this section can be alternatively drafted to remove the (1)(b) and (4) requirements, which more closely matches existing requirements for public and private schooled children.

- 1. A home educator shall ensure that a homeschooled child receives, from a licensed medical professional who is not be related by blood or marriage to the home educator or the homeschooled child
 - a.the age-appropriate health assessments, medical tests, or screenings that the child would be required to receive had the child been enrolled in the public school district where the homeschool is located, in accordance with [existing state medical law or school district policy], and
 - b.a well-child examination or other medical examination conducted in the previous 12 months,



provided that the requirement of subsection (1)(b) shall be waived if the home educator certifies in writing that they cannot reasonably afford to purchase such care, and such care is not offered for free by [the local department of health or social services].

- 2. If a school district permits children enrolled in public school to receive at school the tests described in subsection (1)(a), the superintendent shall permit the homeschooled child access to the public school to receive the same tests at no cost.
- 3. At the beginning of a school year, or within 30 days prior to an initial enrollment in a homeschool, a home educator shall submit to the superintendent documentation from the medical professional that the homeschooled child has received care fulfilling the requirements of subsection (1).
- 4. Failure to provide such care described by subsection (1) shall be considered child neglect as described in [State statute].



SECTION XIV. FUNDING.*

- 1. Except as otherwise prohibited by applicable law, for purposes of allocating federal, state, or local funding to school districts, a homeschooled student is to be included in the average daily membership of the student's school district of residence, regardless of whether or to what extent the homeschooled student participates in public school programs.
- 2. School districts shall use these funds to carry out the provisions of this Chapter, including oversight of homeschools within their district and the provision of services to homeschooled students.

*DRAFTING NOTE

Funding for this legislation is key to its success and ability to protect homeschooled children from abuse and neglect. We appreciate that this model legislation may represent a significant expansion of oversight infrastructure within a state's department of education and/or local superintendents' offices. We firmly believe that the result is worth the cost to protect the lives and education of homeschooled children.

SECTION XV. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional or invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected.



Contact CRHE

31 Porter Street #122 Stoughton, MA 02072

info@responsiblehomeschooling.org media@responsiblehomeschooling.org

(617) 765-7096

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