

SECOND REGULAR SESSION

SENATE BILL NO. 685

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4889S.01I

AN ACT

To repeal sections 211.021, 211.031, 211.032, 211.033, 211.041, 211.061, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, and 211.431, RSMo, and to enact in lieu thereof seventeen new sections relating to juvenile courts, with penalty provisions.

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

Section A. Sections 211.021, 211.031, 211.032, 211.033, 211.041, 211.061, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, and 211.431, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 211.021, 211.031, 211.032, 211.033, 211.041, 211.061, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, and 211.431, to read as follows:

211.021. 1. As used in this chapter, unless the context clearly requires otherwise:

(1) "Adult" means a person [seventeen] **eighteen** years of age or older [except for seventeen-year-old children as defined in this section];

(2) "Child" means any person under [seventeen] **eighteen** years of age [and shall mean, in addition, any person over seventeen but not yet eighteen years of age alleged to have committed a status offense];

(3) "Juvenile court" means the juvenile division or divisions of the circuit court of the county, or judges while hearing juvenile cases assigned to them;

(4) "Legal custody" means the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline of a child. Legal custody may be taken from a parent only by court action and if the legal custody is taken from a parent

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 without termination of parental rights, the parent's duty to provide support
15 continues even though the person having legal custody may provide the
16 necessities of daily living;

17 (5) "Parent" means either a natural parent or a parent by adoption and
18 if the child is illegitimate, "parent" means the mother;

19 (6) "Shelter care" means the temporary care of juveniles in physically
20 unrestricting facilities pending final court disposition. These facilities may
21 include:

22 (a) "Foster home", the private home of foster parents providing
23 twenty-four-hour care to one to three children unrelated to the foster parents by
24 blood, marriage or adoption;

25 (b) "Group foster home", the private home of foster parents providing
26 twenty-four-hour care to no more than six children unrelated to the foster parents
27 by blood, marriage or adoption;

28 (c) "Group home", a child care facility which approximates a family
29 setting, provides access to community activities and resources, and provides care
30 to no more than twelve children[;

31 (7) "Status offense", any offense as described in subdivision (2) of
32 subsection 1 of section 211.031].

33 2. The amendments to subsection 1 of this section, as provided for in this
34 act, shall not take effect until such time as appropriations by the general
35 assembly for additional juvenile officer full-time equivalents and deputy juvenile
36 officer full-time equivalents shall exceed by one million nine hundred thousand
37 dollars the amount spent by the state for such officers in fiscal year 2007 and
38 appropriations by the general assembly to single first class counties for juvenile
39 court personnel costs shall exceed by one million nine hundred thousand dollars
40 the amount spent by the state for such juvenile court personnel costs in fiscal
41 year 2007 and notice of such appropriations has been given to the revisor of
42 statutes.

211.031. 1. Except as otherwise provided in this chapter, the juvenile
2 court or the family court in circuits that have a family court as provided in
3 sections 487.010 to 487.190 shall have exclusive original jurisdiction in
4 proceedings:

5 (1) Involving any child [or person seventeen years of age] who may be a
6 resident of or found within the county and who is alleged to be in need of care
7 and treatment because:

8 (a) The parents, or other persons legally responsible for the care and
9 support of the child [or person seventeen years of age], neglect or refuse to
10 provide proper support, education which is required by law, medical, surgical or
11 other care necessary for his or her well-being; except that reliance by a parent,
12 guardian or custodian upon remedial treatment other than medical or surgical
13 treatment for a child [or person seventeen years of age] shall not be construed as
14 neglect when the treatment is recognized or permitted pursuant to the laws of
15 this state;

16 (b) The child [or person seventeen years of age] is otherwise without
17 proper care, custody or support; or

18 (c) The child [or person seventeen years of age] was living in a room,
19 building or other structure at the time such dwelling was found by a court of
20 competent jurisdiction to be a public nuisance pursuant to section 195.130;

21 (d) The child [or person seventeen years of age is a child] **is** in need of
22 mental health services and the parent, guardian or custodian is unable to afford
23 or access appropriate mental health treatment or care for the child;

24 (2) Involving any child who may be a resident of or found within the
25 county and who is alleged to be in need of care and treatment because:

26 (a) The child while subject to compulsory school attendance is repeatedly
27 and without justification absent from school; or

28 (b) The child disobeys the reasonable and lawful directions of his or her
29 parents or other custodian and is beyond their control; or

30 (c) The child is habitually absent from his or her home without sufficient
31 cause, permission, or justification; or

32 (d) The behavior or associations of the child are otherwise injurious to his
33 or her welfare or to the welfare of others; or

34 (e) The child is charged with an offense not classified as criminal, or with
35 an offense applicable only to children; except that, the juvenile court shall not
36 have jurisdiction over any child fifteen years of age who is alleged to have
37 violated a state or municipal traffic ordinance or regulation, the violation of
38 which does not constitute a felony, or any child who is alleged to have violated a
39 state or municipal ordinance or regulation prohibiting possession or use of any
40 tobacco product;

41 (3) Involving any child who is alleged to have violated a state law or
42 municipal ordinance, or any person who is alleged to have violated a state law or
43 municipal ordinance prior to attaining the age of [seventeen] **eighteen** years, in

44 which cases jurisdiction may be taken by the court of the circuit in which the
45 child or person resides or may be found or in which the violation is alleged to
46 have occurred; except that, the juvenile court shall not have jurisdiction over any
47 child fifteen years of age who is alleged to have violated a state or municipal
48 traffic ordinance or regulation, the violation of which does not constitute a felony,
49 and except that the juvenile court shall have concurrent jurisdiction with the
50 municipal court over any child who is alleged to have violated a municipal curfew
51 ordinance, and except that the juvenile court shall have concurrent jurisdiction
52 with the circuit court on any child who is alleged to have violated a state or
53 municipal ordinance or regulation prohibiting possession or use of any tobacco
54 product;

55 (4) For the adoption of a person;

56 (5) For the commitment of a child [or person seventeen years of age] to
57 the guardianship of the department of social services as provided by law; and

58 (6) Involving an order of protection pursuant to chapter 455 when the
59 respondent is less than [seventeen] **eighteen** years of age.

60 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child
61 [or person seventeen years of age] who resides in a county of this state shall be
62 made as follows:

63 (1) Prior to the filing of a petition and upon request of any party or at the
64 discretion of the juvenile officer, the matter in the interest of a child [or person
65 seventeen years of age] may be transferred by the juvenile officer, with the prior
66 consent of the juvenile officer of the receiving court, to the county of the child's
67 residence or the residence of the person [seventeen] **eighteen** years of age for
68 future action;

69 (2) Upon the motion of any party or on its own motion prior to final
70 disposition on the pending matter, the court in which a proceeding is commenced
71 may transfer the proceeding of a child [or person seventeen years of age] to the
72 court located in the county of the child's residence [or the residence of the person
73 seventeen years of age], or the county in which the offense pursuant to
74 subdivision (3) of subsection 1 of this section is alleged to have occurred for
75 further action;

76 (3) Upon motion of any party or on its own motion, the court in which
77 jurisdiction has been taken pursuant to subsection 1 of this section may at any
78 time thereafter transfer jurisdiction of a child [or person seventeen years of age]
79 to the court located in the county of the child's residence [or the residence of the

80 person seventeen years of age] for further action with the prior consent of the
81 receiving court;

82 (4) Upon motion of any party or upon its own motion at any time following
83 a judgment of disposition or treatment pursuant to section 211.181, the court
84 having jurisdiction of the cause may place the child [or person seventeen years
85 of age] under the supervision of another juvenile court within or without the state
86 pursuant to section 210.570 with the consent of the receiving court;

87 (5) Upon motion of any child [or person seventeen years of age] or his or
88 her parent, the court having jurisdiction shall grant one change of judge pursuant
89 to Missouri supreme court rules;

90 (6) Upon the transfer of any matter, proceeding, jurisdiction or
91 supervision of a child [or person seventeen years of age], certified copies of all
92 legal and social documents and records pertaining to the case on file with the
93 clerk of the transferring juvenile court shall accompany the transfer.

94 3. In any proceeding involving any child [or person seventeen years of
95 age] taken into custody in a county other than the county of the child's residence
96 [or the residence of a person seventeen years of age], the juvenile court of the
97 county of the child's residence [or the residence of a person seventeen years of
98 age] shall be notified of such taking into custody within seventy-two hours.

99 4. When an investigation by a juvenile officer pursuant to this section
100 reveals that the only basis for action involves an alleged violation of section
101 167.031 involving a child who alleges to be home schooled, the juvenile officer
102 shall contact a parent or parents of such child to verify that the child is being
103 home schooled and not in violation of section 167.031 before making a report of
104 such a violation. Any report of a violation of section 167.031 made by a juvenile
105 officer regarding a child who is being home schooled shall be made to the
106 prosecuting attorney of the county where the child legally resides.

107 5. The disability or disease of a parent shall not constitute a basis for a
108 determination that a child is a child in need of care or for the removal of custody
109 of a child from the parent without a specific showing that there is a causal
110 relation between the disability or disease and harm to the child.

211.032. 1. Except as otherwise provided in a circuit participating in a
2 pilot project established by the Missouri supreme court, when a child [or person
3 seventeen years of age], alleged to be in need of care and treatment pursuant to
4 subdivision (1) of subsection 1 of section 211.031, is taken into custody, the
5 juvenile or family court shall notify the parties of the right to have a protective

6 custody hearing. Such notification shall be in writing.

7 2. Upon request from any party, the court shall hold a protective custody
8 hearing. Such hearing shall be held within three days of the request for a
9 hearing, excluding Saturdays, Sundays and legal holidays. For circuits
10 participating in a pilot project established by the Missouri supreme court, the
11 parties shall be notified at the status conference of their right to request a
12 protective custody hearing.

13 3. No later than February 1, 2005, the Missouri supreme court shall
14 require a mandatory court proceeding to be held within three days, excluding
15 Saturdays, Sundays, and legal holidays, in all cases under subdivision (1) of
16 subsection 1 of section 211.031. The Missouri supreme court shall promulgate
17 rules for the implementation of such mandatory court proceedings and may
18 consider recommendations from any pilot projects established by the Missouri
19 supreme court regarding such proceedings. Nothing in this subsection shall
20 prevent the Missouri supreme court from expanding pilot projects prior to the
21 implementation of this subsection.

22 4. The court shall hold an adjudication hearing no later than sixty days
23 after the child has been taken into custody. The court shall notify the parties in
24 writing of the specific date, time, and place of such hearing. If at such hearing
25 the court determines that sufficient cause exists for the child to remain in the
26 custody of the state, the court shall conduct a dispositional hearing no later than
27 ninety days after the child has been taken into custody and shall conduct review
28 hearings regarding the reunification efforts made by the division every ninety to
29 one hundred twenty days for the first year the child is in the custody of the
30 division. After the first year, review hearings shall be held as necessary, but in
31 no event less than once every six months for as long as the child is in the custody
32 of the division.

33 5. At all hearings held pursuant to this section the court may receive
34 testimony and other evidence relevant to the necessity of detaining the child out
35 of the custody of the parents, guardian or custodian.

36 6. By January 1, 2005, the supreme court shall develop rules regarding
37 the effect of untimely hearings.

38 7. If the placement of any child in the custody of the children's division
39 will result in the child attending a school other than the school the child was
40 attending when taken into custody:

41 (1) The child's records from such school shall automatically be forwarded

42 to the school that the child is transferring to upon notification within two
43 business days by the division; or

44 (2) Upon request of the foster family, the guardian ad litem, or the
45 volunteer advocate and whenever possible, the child shall be permitted to
46 continue to attend the same school that the child was enrolled in and attending
47 at the time the child was taken into custody by the division. The division, in
48 consultation with the department of elementary and secondary education, shall
49 establish the necessary procedures to implement the provisions of this subsection.

211.033. 1. No person under the age of [seventeen] **eighteen** years,
2 except those transferred to the court of general jurisdiction under the provisions
3 of section 211.071 shall be detained in a jail or other adult detention facility as
4 that term is defined in section 211.151. A traffic court judge may request the
5 juvenile court to order the commitment of a person under the age of [seventeen]
6 **eighteen** to a juvenile detention facility.

7 2. Nothing in this section shall be construed as creating any civil or
8 criminal liability for any law enforcement officer, juvenile officer, school
9 personnel, or court personnel for any action taken or failure to take any action
10 involving a minor child who remains under the jurisdiction of the juvenile court
11 under this section if such action or failure to take action is based on a good faith
12 belief by such officer or personnel that the minor child is not under the
13 jurisdiction of the juvenile court.

14 3. The amendments to subsection 2 of this section, as provided for in this
15 act, shall not take effect until such time as the provisions of section 211.021 shall
16 take effect in accordance with subsection 2 of section 211.021.

211.041. When jurisdiction over the person of a child has been acquired
2 by the juvenile court under the provisions of this chapter in proceedings coming
3 within the applicable provisions of section 211.031, the jurisdiction of the child
4 may be retained for the purpose of this chapter until he or she has attained the
5 age of twenty-one years, except in cases where he or she is committed to and
6 received by the division of youth services, unless jurisdiction has been returned
7 to the committing court by provisions of chapter 219 through requests of the court
8 to the division of youth services and except in any case where he or she has not
9 paid an assessment imposed in accordance with section 211.181 or in cases where
10 the judgment for restitution entered in accordance with section 211.185 has not
11 been satisfied. Every child over whose person the juvenile court retains
12 jurisdiction shall be prosecuted under the general law for any violation of a state

13 law or of a municipal ordinance which he or she commits after he or she becomes
14 [seventeen] **eighteen** years of age. The juvenile court shall have no jurisdiction
15 with respect to any such violation and, so long as it retains jurisdiction of the
16 child, shall not exercise its jurisdiction in such a manner as to conflict with any
17 other court's jurisdiction as to any such violation.

211.061. 1. When a child is taken into custody with or without warrant
2 for an offense, the child, together with any information concerning the child and
3 the personal property found in the child's possession, shall be taken immediately
4 and directly before the juvenile court or delivered to the juvenile officer or person
5 acting for [him] **the child**.

6 2. If any person is taken before a circuit or associate circuit judge not
7 assigned to juvenile court or a municipal judge, and it is then, or at any time
8 thereafter, ascertained that he or she was under the age of [seventeen] **eighteen**
9 years at the time he or she is alleged to have committed the offense, or that he
10 or she is subject to the jurisdiction of the juvenile court as provided by this
11 chapter, it is the duty of the judge forthwith to transfer the case or refer the
12 matter to the juvenile court, and direct the delivery of such person, together with
13 information concerning him or her and the personal property found in his or her
14 possession, to the juvenile officer or person acting as such.

15 3. When the juvenile court is informed that a child is in detention it shall
16 examine the reasons therefor and shall immediately:

17 (1) Order the child released; or

18 (2) Order the child continued in detention until a detention hearing is
19 held. An order to continue the child in detention shall only be entered upon the
20 filing of a petition or motion to modify and a determination by the court that
21 probable cause exists to believe that the child has committed acts specified in the
22 petition or motion that bring the child within the jurisdiction of the court under
23 subdivision (2) or (3) of subsection 1 of section 211.031.

24 4. A juvenile shall not remain in detention for a period greater than
25 twenty-four hours unless the court orders a detention hearing. If such hearing
26 is not held within three days, excluding Saturdays, Sundays and legal holidays,
27 the juvenile shall be released from detention unless the court for good cause
28 orders the hearing continued. The detention hearing shall be held within the
29 judicial circuit at a date, time and place convenient to the court. Notice of the
30 date, time and place of a detention hearing, and of the right to counsel, shall be
31 given to the juvenile and his or her custodian in person, by telephone, or by such

32 other expeditious method as is available.

211.071. 1. If a petition alleges that a child between the ages of twelve
2 and [seventeen] **eighteen** has committed an offense which would be considered
3 a felony if committed by an adult, the court may, upon its own motion or upon
4 motion by the juvenile officer, the child or the child's custodian, order a hearing
5 and may, in its discretion, dismiss the petition and such child may be transferred
6 to the court of general jurisdiction and prosecuted under the general law; except
7 that if a petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, second degree murder
9 under section 565.021, first degree assault under section 565.050, forcible rape
10 under section 566.030 as it existed prior to August 28, 2013, rape in the first
11 degree under section 566.030, forcible sodomy under section 566.060 as it existed
12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first
13 degree robbery under section 569.020 **until December 31, 2016, and section**
14 **570.023 beginning January 1, 2017**, or distribution of drugs under section
15 195.211 **until December 31, 2016, and section 579.020 beginning January**
16 **1, 2017**, or has committed two or more prior unrelated offenses which would be
17 felonies if committed by an adult, the court shall order a hearing, and may in its
18 discretion, dismiss the petition and transfer the child to a court of general
19 jurisdiction for prosecution under the general law.

20 2. Upon apprehension and arrest, jurisdiction over the criminal offense
21 allegedly committed by any person between [seventeen] **eighteen** and twenty-one
22 years of age over whom the juvenile court has retained continuing jurisdiction
23 shall automatically terminate and that offense shall be dealt with in the court of
24 general jurisdiction as provided in section 211.041.

25 3. Knowing and willful age misrepresentation by a juvenile subject shall
26 not affect any action or proceeding which occurs based upon the
27 misrepresentation. Any evidence obtained during the period of time in which a
28 child misrepresents his or her age may be used against the child and [will] **shall**
29 be subject only to rules of evidence applicable in adult proceedings.

30 4. Written notification of a transfer hearing shall be given to the juvenile
31 and his or her custodian in the same manner as provided in sections 211.101 and
32 211.111. Notice of the hearing may be waived by the custodian. Notice shall
33 contain a statement that the purpose of the hearing is to determine whether the
34 child is a proper subject to be dealt with under the provisions of this chapter, and
35 that if the court finds that the child is not a proper subject to be dealt with under

36 the provisions of this chapter, the petition [will] **shall** be dismissed to allow for
37 prosecution of the child under the general law.

38 5. The juvenile officer may consult with the office of prosecuting attorney
39 concerning any offense for which the child could be certified as an adult under
40 this section. The prosecuting or circuit attorney shall have access to police
41 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses
42 and all other records or reports relating to the offense alleged to have been
43 committed by the child. The prosecuting or circuit attorney shall have access to
44 the disposition records of the child when the child has been adjudicated pursuant
45 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney
46 shall not divulge any information regarding the child and the offense until the
47 juvenile court at a judicial hearing has determined that the child is not a proper
48 subject to be dealt with under the provisions of this chapter.

49 6. A written report shall be prepared in accordance with this chapter
50 developing fully all available information relevant to the criteria which shall be
51 considered by the court in determining whether the child is a proper subject to
52 be dealt with under the provisions of this chapter and whether there are
53 reasonable prospects of rehabilitation within the juvenile justice system. These
54 criteria shall include but not be limited to:

55 (1) The seriousness of the offense alleged and whether the protection of
56 the community requires transfer to the court of general jurisdiction;

57 (2) Whether the offense alleged involved viciousness, force and violence;

58 (3) Whether the offense alleged was against persons or property with
59 greater weight being given to the offense against persons, especially if personal
60 injury resulted;

61 (4) Whether the offense alleged is a part of a repetitive pattern of offenses
62 which indicates that the child may be beyond rehabilitation under the juvenile
63 code;

64 (5) The record and history of the child, including experience with the
65 juvenile justice system, other courts, supervision, commitments to juvenile
66 institutions and other placements;

67 (6) The sophistication and maturity of the child as determined by
68 consideration of his **or her** home and environmental situation, emotional
69 condition and pattern of living;

70 (7) The age of the child;

71 (8) The program and facilities available to the juvenile court in

72 considering disposition;

73 (9) Whether or not the child can benefit from the treatment or
74 rehabilitative programs available to the juvenile court; and

75 (10) Racial disparity in certification.

76 7. If the court dismisses the petition to permit the child to be prosecuted
77 under the general law, the court shall enter a dismissal order containing:

78 (1) Findings showing that the court had jurisdiction of the cause and of
79 the parties;

80 (2) Findings showing that the child was represented by counsel;

81 (3) Findings showing that the hearing was held in the presence of the
82 child and his **or her** counsel; and

83 (4) Findings showing the reasons underlying the court's decision to
84 transfer jurisdiction.

85 8. A copy of the petition and order of the dismissal shall be sent to the
86 prosecuting attorney.

87 9. When a petition has been dismissed thereby permitting a child to be
88 prosecuted under the general law and the prosecution of the child results in a
89 conviction, the jurisdiction of the juvenile court over that child is forever
90 terminated, except as provided in subsection 10 of this section, for an act that
91 would be a violation of a state law or municipal ordinance.

92 10. If a petition has been dismissed thereby permitting a child to be
93 prosecuted under the general law and the child is found not guilty by a court of
94 general jurisdiction, the juvenile court shall have jurisdiction over any later
95 offense committed by that child which would be considered a misdemeanor or
96 felony if committed by an adult, subject to the certification provisions of this
97 section.

98 11. If the court does not dismiss the petition to permit the child to be
99 prosecuted under the general law, it shall set a date for the hearing upon the
100 petition as provided in section 211.171.

211.073. 1. The court shall, in a case when the offender is under
2 [seventeen] **eighteen** years [and six months] of age and has been transferred to
3 a court of general jurisdiction pursuant to section 211.071, and whose prosecution
4 results in a conviction or a plea of guilty, consider dual jurisdiction of both the
5 criminal and juvenile codes, as set forth in this section. The court is authorized
6 to impose a juvenile disposition under this chapter and simultaneously impose an
7 adult criminal sentence, the execution of which shall be suspended pursuant to

8 the provisions of this section. Successful completion of the juvenile disposition
9 ordered shall be a condition of the suspended adult criminal sentence. The court
10 may order an offender into the custody of the division of youth services pursuant
11 to this section:

12 (1) Upon agreement of the division of youth services; and

13 (2) If the division of youth services determines that there is space
14 available in a facility designed to serve offenders sentenced under this section. If
15 the division of youth services agrees to accept a youth and the court does not
16 impose a juvenile disposition, the court shall make findings on the record as to
17 why the division of youth services was not appropriate for the offender prior to
18 imposing the adult criminal sentence.

19 2. If there is probable cause to believe that the offender has violated a
20 condition of the suspended sentence or committed a new offense, the court shall
21 conduct a hearing on the violation charged, unless the offender waives such
22 hearing. If the violation is established and found the court may continue or
23 revoke the juvenile disposition, impose the adult criminal sentence, or enter such
24 other order as it may see fit.

25 3. When an offender has received a suspended sentence pursuant to this
26 section and the division determines the child is beyond the scope of its treatment
27 programs, the division of youth services may petition the court for a transfer of
28 custody of the offender. The court shall hold a hearing and shall:

29 (1) Revoke the suspension and direct that the offender be taken into
30 immediate custody of the department of corrections; or

31 (2) Direct that the offender be placed on probation.

32 4. When an offender who has received a suspended sentence reaches the
33 age of [seventeen] **eighteen**, the court shall hold a hearing. The court shall:

34 (1) Revoke the suspension and direct that the offender be taken into
35 immediate custody of the department of corrections;

36 (2) Direct that the offender be placed on probation; or

37 (3) Direct that the offender remain in the custody of the division of youth
38 services if the division agrees to such placement.

39 5. The division of youth services shall petition the court for a hearing
40 before it releases an offender who comes within subsection 1 of this section at any
41 time before the offender reaches the age of twenty-one years. The court shall:

42 (1) Revoke the suspension and direct that the offender be taken into
43 immediate custody of the department of corrections; or

44 (2) Direct that the offender be placed on probation.

45 6. If the suspension of the adult criminal sentence is revoked, all time
46 served by the offender under the juvenile disposition shall be credited toward the
47 adult criminal sentence imposed.

211.081. 1. Whenever any person informs the court in person and in
2 writing that a child appears to be within the purview of applicable provisions of
3 section 211.031 [or that a person seventeen years of age appears to be within the
4 purview of the provisions of subdivision (1) of subsection 1 of section 211.031], the
5 court shall make or cause to be made a preliminary inquiry to determine the facts
6 and to determine whether or not the interests of the public or of the child [or
7 person seventeen years of age] require that further action be taken. On the basis
8 of this inquiry, the juvenile court may make such informal adjustment as is
9 practicable without a petition or may authorize the filing of a petition by the
10 juvenile officer. Any other provision of this chapter to the contrary
11 notwithstanding, the juvenile court shall not make any order for disposition of a
12 child [or person seventeen years of age] which would place or commit the child
13 [or person seventeen years of age] to any location outside the state of Missouri
14 without first receiving the approval of the children's division.

15 2. Placement in any institutional setting shall represent the least
16 restrictive appropriate placement for the child [or person seventeen years of age]
17 and shall be recommended based upon a psychological or psychiatric evaluation
18 or both. Prior to entering any order for disposition of a child [or person seventeen
19 years of age] which would order residential treatment or other services inside the
20 state of Missouri, the juvenile court shall enter findings which include the
21 recommendation of the psychological or psychiatric evaluation or both; and
22 certification from the division director or designee as to whether a provider or
23 funds or both are available, including a projection of their future availability. If
24 the children's division indicates that funding is not available, the division shall
25 recommend and make available for placement by the court an alternative
26 placement for the child [or person seventeen years of age]. The division shall
27 have the burden of demonstrating that they have exercised due diligence in
28 utilizing all available services to carry out the recommendation of the evaluation
29 team and serve the best interest of the child [or person seventeen years of
30 age]. The judge shall not order placement or an alternative placement with a
31 specific provider but may reasonably designate the scope and type of the services
32 which shall be provided by the department to the child [or person seventeen years

33 of age].

34 3. Obligations of the state incurred under the provisions of section
35 211.181 shall not exceed, in any fiscal year, the amount appropriated for this
36 purpose.

211.091. 1. The petition shall be entitled "In the interest of, a
2 child under [seventeen] **eighteen** years of age" [or "In the interest of, a
3 child seventeen years of age" or "In the interest of, a person seventeen
4 years of age" as appropriate to the subsection of section 211.031 that provides the
5 basis for the filing of the petition].

6 2. The petition shall set forth plainly:

7 (1) The facts which bring the child [or person seventeen years of age]
8 within the jurisdiction of the court;

9 (2) The full name, birth date, and residence of the child [or person
10 seventeen years of age];

11 (3) The names and residence of his or her parents, if living;

12 (4) The name and residence of his or her legal guardian if there be one,
13 of the person having custody of the child [or person seventeen years of age] or of
14 the nearest known relative if no parent or guardian can be found; and

15 (5) Any other pertinent data or information.

16 3. If any facts required in subsection 2 of this section are not known by
17 the petitioner, the petition shall so state.

18 4. Prior to the voluntary dismissal of a petition filed under this section,
19 the juvenile officer shall assess the impact of such dismissal on the best interests
20 of the child, and shall take all actions practicable to minimize any negative
21 impact.

211.101. 1. After a petition has been filed, unless the parties appear
2 voluntarily, the juvenile court shall issue a summons in the name of the state of
3 Missouri requiring the person who has custody of the child [or person seventeen
4 years of age] to appear personally and, unless the court orders otherwise, to bring
5 the child [or person seventeen years of age] before the court, at the time and
6 place stated.

7 2. If the person so summoned is other than a parent or guardian of the
8 child [or person seventeen years of age], then the parent or guardian or both
9 shall also be notified of the pendency of the case and of the time and place
10 appointed.

11 3. If it appears that the child [or person seventeen years of age] is in such

12 condition or surroundings that his or her welfare requires that his or her custody
13 be immediately assumed by the court, the judge may order, by endorsement upon
14 the summons, the officer serving it to take the child [or person seventeen years
15 of age] into custody at once.

16 4. Subpoena may be issued requiring the appearance of any other person
17 whose presence, in the opinion of the judge, is necessary.

211.161. 1. The court may cause any child [or person seventeen years of
2 age] within its jurisdiction to be examined by a physician, psychiatrist or
3 psychologist appointed by the court in order that the condition of the child [or
4 person seventeen years of age] may be given consideration in the disposition of
5 his case. The expenses of the examination when approved by the court shall be
6 paid by the county, except that the county shall not be liable for the costs of
7 examinations conducted by the department of mental health either directly or
8 through contract.

9 2. The services of a state, county or municipally maintained hospital,
10 institution, or psychiatric or health clinic may be used for the purpose of this
11 examination and treatment.

12 3. A county may establish medical, psychiatric and other facilities, upon
13 request of the juvenile court, to provide proper services for the court in the
14 diagnosis and treatment of children [or persons seventeen years of age] coming
15 before it and these facilities shall be under the administration and control of the
16 juvenile court. The juvenile court may appoint and fix the compensation of such
17 professional and other personnel as it deems necessary to provide the court
18 proper diagnostic, clinical and treatment services for children [or persons
19 seventeen years of age] under its jurisdiction.

211.181. 1. When a child [or person seventeen years of age] is found by
2 the court to come within the applicable provisions of subdivision (1) of subsection
3 1 of section 211.031, the court shall so decree and make a finding of fact upon
4 which it exercises its jurisdiction over the child [or person seventeen years of
5 age], and the court may, by order duly entered, proceed as follows:

6 (1) Place the child [or person seventeen years of age] under supervision
7 in his own home or in the custody of a relative or other suitable person after the
8 court or a public agency or institution designated by the court conducts an
9 investigation of the home, relative or person and finds such home, relative or
10 person to be suitable and upon such conditions as the court may require;

11 (2) Commit the child [or person seventeen years of age] to the custody of:

12 (a) A public agency or institution authorized by law to care for children
13 or to place them in family homes; except that, such child [or person seventeen
14 years of age] may not be committed to the department of social services, division
15 of youth services;

16 (b) Any other institution or agency which is authorized or licensed by law
17 to care for children or to place them in family homes;

18 (c) An association, school or institution willing to receive the child [or
19 person seventeen years of age] in another state if the approval of the agency in
20 that state which administers the laws relating to importation of children into the
21 state has been secured; or

22 (d) The juvenile officer;

23 (3) Place the child [or person seventeen years of age] in a family home;

24 (4) Cause the child [or person seventeen years of age] to be examined and
25 treated by a physician, psychiatrist or psychologist and when the health or
26 condition of the child [or person seventeen years of age] requires it, cause the
27 child [or person seventeen years of age] to be placed in a public or private
28 hospital, clinic or institution for treatment and care; except that, nothing
29 contained herein authorizes any form of compulsory medical, surgical, or
30 psychiatric treatment of a child [or person seventeen years of age] whose parents
31 or guardian in good faith are providing other remedial treatment recognized or
32 permitted under the laws of this state;

33 (5) The court may order, pursuant to subsection 2 of section 211.081, that
34 the child receive the necessary services in the least restrictive appropriate
35 environment including home and community-based services, treatment and
36 support, based on a coordinated, individualized treatment plan. The
37 individualized treatment plan shall be approved by the court and developed by
38 the applicable state agencies responsible for providing or paying for any and all
39 appropriate and necessary services, subject to appropriation, and shall include
40 which agencies are going to pay for and provide such services. Such plan must
41 be submitted to the court within thirty days and the child's family shall actively
42 participate in designing the service plan for the child [or person seventeen years
43 of age];

44 (6) The department of social services, in conjunction with the department
45 of mental health, shall apply to the United States Department of Health and
46 Human Services for such federal waivers as required to provide services for such
47 children, including the acquisition of community-based services waivers.

48 2. When a child is found by the court to come within the provisions of
49 subdivision (2) of subsection 1 of section 211.031, the court shall so decree and
50 upon making a finding of fact upon which it exercises its jurisdiction over the
51 child, the court may, by order duly entered, proceed as follows:

52 (1) Place the child under supervision in his **or her** own home or in
53 custody of a relative or other suitable person after the court or a public agency
54 or institution designated by the court conducts an investigation of the home,
55 relative or person and finds such home, relative or person to be suitable and upon
56 such conditions as the court may require;

57 (2) Commit the child to the custody of:

58 (a) A public agency or institution authorized by law to care for children
59 or place them in family homes; except that, a child may be committed to the
60 department of social services, division of youth services, only if he **or she** is
61 presently under the court's supervision after an adjudication under the provisions
62 of subdivision (2) or (3) of subsection 1 of section 211.031;

63 (b) Any other institution or agency which is authorized or licensed by law
64 to care for children or to place them in family homes;

65 (c) An association, school or institution willing to receive it in another
66 state if the approval of the agency in that state which administers the laws
67 relating to importation of children into the state has been secured; or

68 (d) The juvenile officer;

69 (3) Place the child in a family home;

70 (4) Cause the child to be examined and treated by a physician,
71 psychiatrist or psychologist and when the health or condition of the child requires
72 it, cause the child to be placed in a public or private hospital, clinic or institution
73 for treatment and care; except that, nothing contained herein authorizes any form
74 of compulsory medical, surgical, or psychiatric treatment of a child whose parents
75 or guardian in good faith are providing other remedial treatment recognized or
76 permitted under the laws of this state;

77 (5) Assess an amount of up to ten dollars to be paid by the child to the
78 clerk of the court.

79 Execution of any order entered by the court pursuant to this subsection, including
80 a commitment to any state agency, may be suspended and the child placed on
81 probation subject to such conditions as the court deems reasonable. After a
82 hearing, probation may be revoked and the suspended order executed.

83 3. When a child is found by the court to come within the provisions of

84 subdivision (3) of subsection 1 of section 211.031, the court shall so decree and
85 make a finding of fact upon which it exercises its jurisdiction over the child, and
86 the court may, by order duly entered, proceed as follows:

87 (1) Place the child under supervision in his or her own home or in custody
88 of a relative or other suitable person after the court or a public agency or
89 institution designated by the court conducts an investigation of the home, relative
90 or person and finds such home, relative or person to be suitable and upon such
91 conditions as the court may require; provided that, no child who has been
92 adjudicated a delinquent by a juvenile court for committing or attempting to
93 commit a sex-related offense which if committed by an adult would be considered
94 a felony offense pursuant to chapter 566, RSMo, including but not limited to rape,
95 forcible sodomy, child molestation, and sexual abuse, and in which the victim was
96 a child, shall be placed in any residence within one thousand feet of the residence
97 of the abused child of that offense until the abused child reaches the age of
98 eighteen, and provided further that the provisions of this subdivision regarding
99 placement within one thousand feet of the abused child shall not apply when the
100 abusing child and the abused child are siblings or children living in the same
101 home;

102 (2) Commit the child to the custody of:

103 (a) A public agency or institution authorized by law to care for children
104 or to place them in family homes;

105 (b) Any other institution or agency which is authorized or licensed by law
106 to care for children or to place them in family homes;

107 (c) An association, school or institution willing to receive it in another
108 state if the approval of the agency in that state which administers the laws
109 relating to importation of children into the state has been secured; or

110 (d) The juvenile officer;

111 (3) Beginning January 1, 1996, the court may make further directions as
112 to placement with the division of youth services concerning the child's length of
113 stay. The length of stay order may set forth a minimum review date;

114 (4) Place the child in a family home;

115 (5) Cause the child to be examined and treated by a physician,
116 psychiatrist or psychologist and when the health or condition of the child requires
117 it, cause the child to be placed in a public or private hospital, clinic or institution
118 for treatment and care; except that, nothing contained herein authorizes any form
119 of compulsory medical, surgical, or psychiatric treatment of a child whose parents

120 or guardian in good faith are providing other remedial treatment recognized or
121 permitted under the laws of this state;

122 (6) Suspend or revoke a state or local license or authority of a child to
123 operate a motor vehicle;

124 (7) Order the child to make restitution or reparation for the damage or
125 loss caused by his **or her** offense. In determining the amount or extent of the
126 damage, the court may order the juvenile officer to prepare a report and may
127 receive other evidence necessary for such determination. The child and his **or**
128 **her** attorney shall have access to any reports which may be prepared, and shall
129 have the right to present evidence at any hearing held to ascertain the amount
130 of damages. Any restitution or reparation ordered shall be reasonable in view of
131 the child's ability to make payment or to perform the reparation. The court may
132 require the clerk of the circuit court to act as receiving and disbursing agent for
133 any payment ordered;

134 (8) Order the child to a term of community service under the supervision
135 of the court or of an organization selected by the court. Every person,
136 organization, and agency, and each employee thereof, charged with the
137 supervision of a child under this subdivision, or who benefits from any services
138 performed as a result of an order issued under this subdivision, shall be immune
139 from any suit by the child ordered to perform services under this subdivision, or
140 any person deriving a cause of action from such child, if such cause of action
141 arises from the supervision of the child's performance of services under this
142 subdivision and if such cause of action does not arise from an intentional tort. A
143 child ordered to perform services under this subdivision shall not be deemed an
144 employee within the meaning of the provisions of chapter 287, RSMo, nor shall
145 the services of such child be deemed employment within the meaning of the
146 provisions of chapter 288, RSMo. Execution of any order entered by the court,
147 including a commitment to any state agency, may be suspended and the child
148 placed on probation subject to such conditions as the court deems
149 reasonable. After a hearing, probation may be revoked and the suspended order
150 executed;

151 (9) When a child has been adjudicated to have violated a municipal
152 ordinance or to have committed an act that would be a misdemeanor if committed
153 by an adult, assess an amount of up to twenty-five dollars to be paid by the child
154 to the clerk of the court; when a child has been adjudicated to have committed an
155 act that would be a felony if committed by an adult, assess an amount of up to

156 fifty dollars to be paid by the child to the clerk of the court.

157 4. Beginning January 1, 1996, the court may set forth in the order of
158 commitment the minimum period during which the child shall remain in the
159 custody of the division of youth services. No court order shall require a child to
160 remain in the custody of the division of youth services for a period which exceeds
161 the child's eighteenth birth date except upon petition filed by the division of
162 youth services pursuant to subsection 1 of section 219.021, RSMo. In any order
163 of commitment of a child to the custody of the division of youth services, the
164 division shall determine the appropriate program or placement pursuant to
165 subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the
166 department shall not discharge a child from the custody of the division of youth
167 services before the child completes the length of stay determined by the court in
168 the commitment order unless the committing court orders otherwise. The director
169 of the division of youth services may at any time petition the court for a review
170 of a child's length of stay commitment order, and the court may, upon a showing
171 of good cause, order the early discharge of the child from the custody of the
172 division of youth services. The division may discharge the child from the division
173 of youth services without a further court order after the child completes the
174 length of stay determined by the court or may retain the child for any period after
175 the completion of the length of stay in accordance with the law.

176 5. When an assessment has been imposed under the provisions of
177 subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the
178 court in the circuit where the assessment is imposed by court order, to be
179 deposited in a fund established for the sole purpose of payment of judgments
180 entered against children in accordance with section 211.185.

211.321. 1. Records of juvenile court proceedings as well as all
2 information obtained and social records prepared in the discharge of official duty
3 for the court shall not be open to inspection or their contents disclosed, except by
4 order of the court to persons having a legitimate interest therein, unless a
5 petition or motion to modify is sustained which charges the child with an offense
6 which, if committed by an adult, would be a class A felony under the criminal
7 code of Missouri, or capital murder, first degree murder, or second degree murder
8 or except as provided in subsection 2 of this section. In addition, whenever a
9 report is required under section 557.026, there shall also be included a complete
10 list of certain violations of the juvenile code for which the defendant had been
11 adjudicated a delinquent while a juvenile. This list shall be made available to

12 the probation officer and shall be included in the presentence report. The
13 violations to be included in the report are limited to the following: rape, sodomy,
14 murder, kidnapping, robbery, arson, burglary or any acts involving the rendering
15 or threat of serious bodily harm. The supreme court may promulgate rules to be
16 followed by the juvenile courts in separating the records.

17 2. In all proceedings under subdivision (2) of subsection 1 of section
18 211.031, the records of the juvenile court as well as all information obtained and
19 social records prepared in the discharge of official duty for the court shall be kept
20 confidential and shall be open to inspection only by order of the judge of the
21 juvenile court or as otherwise provided by statute. In all proceedings under
22 subdivision (3) of subsection 1 of section 211.031 the records of the juvenile court
23 as well as all information obtained and social records prepared in the discharge
24 of official duty for the court shall be kept confidential and may be open to
25 inspection without court order only as follows:

26 (1) The juvenile officer is authorized at any time:

27 (a) To provide information to or discuss matters concerning the child, the
28 violation of law or the case with the victim, witnesses, officials at the child's
29 school, law enforcement officials, prosecuting attorneys, any person or agency
30 having or proposed to have legal or actual care, custody or control of the child, or
31 any person or agency providing or proposed to provide treatment of the
32 child. Information received pursuant to this paragraph shall not be released to
33 the general public, but shall be released only to the persons or agencies listed in
34 this paragraph;

35 (b) To make public information concerning the offense, the substance of
36 the petition, the status of proceedings in the juvenile court and any other
37 information which does not specifically identify the child or the child's family;

38 (2) After a child has been adjudicated delinquent pursuant to subdivision
39 (3) of subsection 1 of section 211.031, for an offense which would be a felony if
40 committed by an adult, the records of the dispositional hearing and proceedings
41 related thereto shall be open to the public to the same extent that records of
42 criminal proceedings are open to the public. However, the social summaries,
43 investigations or updates in the nature of presentence investigations, and status
44 reports submitted to the court by any treating agency or individual after the
45 dispositional order is entered shall be kept confidential and shall be opened to
46 inspection only by order of the judge of the juvenile court;

47 (3) As otherwise provided by statute;

48 (4) In all other instances, only by order of the judge of the juvenile court.

49 3. Peace officers' records, if any are kept, of children shall be kept
50 separate from the records of persons [seventeen] **eighteen** years of age or over
51 and shall not be open to inspection or their contents disclosed, except by order of
52 the court. This subsection does not apply to children who are transferred to
53 courts of general jurisdiction as provided by section 211.071 or to juveniles
54 convicted under the provisions of sections 578.421 to 578.437. This subsection
55 does not apply to the inspection or disclosure of the contents of the records of
56 peace officers for the purpose of pursuing a civil forfeiture action pursuant to the
57 provisions of section 195.140.

58 4. Nothing in this section shall be construed to prevent the release of
59 information and data to persons or organizations authorized by law to compile
60 statistics relating to juveniles. The court shall adopt procedures to protect the
61 confidentiality of children's names and identities.

62 5. The court may, either on its own motion or upon application by the
63 child or his **or her** representative, or upon application by the juvenile officer,
64 enter an order to destroy all social histories, records, and information, other than
65 the official court file, and may enter an order to seal the official court file, as well
66 as all peace officers' records, at any time after the child has reached his
67 [seventeenth] **or her eighteenth** birthday if the court finds that it is in the best
68 interest of the child that such action or any part thereof be taken, unless the
69 jurisdiction of the court is continued beyond the child's seventeenth birthday, in
70 which event such action or any part thereof may be taken by the court at any
71 time after the closing of the child's case.

72 6. Nothing in this section shall be construed to prevent the release of
73 general information regarding the informal adjustment or formal adjudication of
74 the disposition of a child's case to a victim or a member of the immediate family
75 of a victim of any offense committed by the child. Such general information shall
76 not be specific as to location and duration of treatment or detention or as to any
77 terms of supervision.

78 7. Records of juvenile court proceedings as well as all information
79 obtained and social records prepared in the discharge of official duty for the court
80 shall be disclosed to the child fatality review panel reviewing the child's death
81 pursuant to section 210.192 unless the juvenile court on its own motion, or upon
82 application by the juvenile officer, enters an order to seal the records of the victim
83 child.

211.421. 1. After any child has come under the care or control of the juvenile court as provided in this chapter, any person who thereafter encourages, aids, or causes the child to commit any act or engage in any conduct which would be injurious to the child's morals or health or who knowingly or negligently disobeys, violates or interferes with a lawful order of the court with relation to the child, is guilty of contempt of court, and shall be proceeded against as now provided by law and punished by imprisonment in the county jail for a term not exceeding six months or by a fine not exceeding five hundred dollars or by both such fine and imprisonment.

2. If it appears at a juvenile court hearing that any person [seventeen] **eighteen** years of age or over has violated section 568.045 or 568.050, RSMo, by endangering the welfare of a child, the judge of the juvenile court shall refer the information to the prosecuting or circuit attorney, as the case may be, for appropriate proceedings.

211.425. 1. Any person who has been adjudicated a delinquent by a juvenile court for committing or attempting to commit a sex-related offense which if committed by an adult would be considered a felony offense pursuant to chapter 566 including, but not limited to, rape, forcible sodomy, child molestation and sexual abuse, shall be considered a juvenile sex offender and shall be required to register as a juvenile sex offender by complying with the registration requirements provided for in this section, unless such juvenile adjudicated as a delinquent is fourteen years of age or older at the time of the offense and the offense adjudicated would be considered a felony under chapter 566 if committed by an adult, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, including any attempt or conspiracy to commit such offense, in which case, the juvenile shall be required to register as an adult sexual offender under sections 589.400 to 589.425. This requirement shall also apply to any person who is or has been adjudicated a juvenile delinquent in any other state or federal jurisdiction for committing, attempting to commit, or conspiring to commit offenses which would be proscribed herein.

2. Any state agency having supervision over a juvenile required to register as a juvenile sex offender or any court having jurisdiction over a juvenile required to register as a juvenile sex offender, or any person required to register as a juvenile sex offender, shall, within ten days of the juvenile offender moving into any county of this state, register with the juvenile office of the county. If such juvenile offender changes residence or address, the state agency, court or person

23 shall inform the juvenile office within ten days of the new residence or address
24 and shall also be required to register with the juvenile office of any new county
25 of residence. Registration shall be accomplished by completing a registration
26 form similar to the form provided for in section 589.407. Such form shall include,
27 but is not limited to, the following:

28 (1) A statement in writing signed by the juvenile, giving the juvenile's
29 name, address, Social Security number, phone number, school in which enrolled,
30 place of employment, offense which requires registration, including the date,
31 place, and a brief description of such offense, date and place of adjudication
32 regarding such offense, and age and gender of the victim at the time of the
33 offense; and

34 (2) The fingerprints and a photograph of the juvenile.

35 3. Juvenile offices shall maintain the registration forms of those juvenile
36 offenders in their jurisdictions who register as required by this
37 section. Information contained on the registration forms shall be kept
38 confidential and may be released by juvenile offices to only those persons and
39 agencies who are authorized to receive information from juvenile court records as
40 provided by law, including, but not limited to, those specified in section
41 211.321. State agencies having custody of juveniles who fall within the
42 registration requirements of this section shall notify the appropriate juvenile
43 offices when such juvenile offenders are being transferred to a location falling
44 within the jurisdiction of such juvenile offices.

45 4. Any juvenile who is required to register pursuant to this section but
46 fails to do so or who provides false information on the registration form is subject
47 to disposition pursuant to this chapter. Any person [seventeen] **eighteen** years
48 of age or over who commits such violation is guilty of a class A misdemeanor as
49 provided for in section 211.431.

50 5. Any juvenile to whom the registration requirement of this section
51 applies shall be informed by the official in charge of the juvenile's custody, upon
52 the juvenile's discharge or release from such custody, of the requirement to
53 register pursuant to this section. Such official shall obtain the address where
54 such juvenile expects to register upon being discharged or released and shall
55 report the juvenile's name and address to the juvenile office where the juvenile
56 [will] **shall** be required to register. This requirement to register upon discharge
57 or release from custody does not apply in situations where the juvenile is
58 temporarily released under guard or direct supervision from a detention facility

59 or similar custodial facility.

60 6. The requirement to register as a juvenile sex offender shall terminate
61 upon the juvenile offender reaching age twenty-one, unless such juvenile offender
62 is required to register as an adult offender pursuant to section 589.400.

 211.431. Any person [seventeen] **eighteen** years of age or over who
2 willfully violates, neglects or refuses to obey or perform any lawful order of the
3 court, or who violates any provision of this chapter is guilty of a class A
4 misdemeanor.

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Unofficial

Bill

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