

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SCS/HCS/House Bill No. 16, Page 1, Section TITLE, Line 3,

2 by striking "the offense of unlawful transfer of weapons" and  
 3 inserting in lieu thereof the following: "public safety"; and

4 Further amend said bill, page 1, section A, line 2, by  
 5 inserting after all of said line the following:

6 "211.211. 1. A child is entitled to be represented by  
 7 counsel in all proceedings under subdivision (2) or (3) of  
 8 subsection 1 of section 211.031 and by a guardian ad litem in all  
 9 proceedings under subdivision (1) of subsection 1 of section  
 10 211.031.

11 2. The court shall appoint counsel for a child prior to the  
 12 filing of a petition if a request is made therefor to the court  
 13 and the court finds that the child is the subject of a juvenile  
 14 court proceeding and that the child making the request is  
 15 indigent.

16 3. (1) When a petition has been filed under subdivision  
 17 (2) or (3) of subsection 1 of section 211.031, the court shall  
 18 appoint counsel for the child except if private counsel has  
 19 entered his or her appearance on behalf of the child or if  
 20 counsel has been waived in accordance with law; except that,  
 21 counsel shall not be waived for any proceeding specified under

1 subsection 10 of this section.

2 (2) If a child waives his or her right to counsel, such  
3 waiver shall be made in open court and be recorded and in writing  
4 and shall be made knowingly, intelligently, and voluntarily. In  
5 determining whether a child has knowingly, intelligently, and  
6 voluntarily waived his or her right to counsel, the court shall  
7 look to the totality of the circumstances including, but not  
8 limited to, the child's age, intelligence, background, and  
9 experience generally and in the court system specifically; the  
10 child's emotional stability; and the complexity of the  
11 proceedings.

12 4. When a petition has been filed and the child's custodian  
13 appears before the court without counsel, the court shall appoint  
14 counsel for the custodian if it finds:

15 (1) That the custodian is indigent; and

16 (2) That the custodian desires the appointment of counsel;  
17 and

18 (3) That a full and fair hearing requires appointment of  
19 counsel for the custodian.

20 5. Counsel shall be allowed a reasonable time in which to  
21 prepare to represent his or her client.

22 6. Counsel shall serve for all stages of the proceedings,  
23 including appeal, unless relieved by the court for good cause  
24 shown. If no appeal is taken, services of counsel are terminated  
25 following the entry of an order of disposition.

26 7. The child and his or her custodian may be represented by  
27 the same counsel except where a conflict of interest exists.  
28 Where it appears to the court that a conflict exists, it shall  
29 order that the child and his or her custodian be represented by

1 separate counsel, and it shall appoint counsel if required by  
2 subsection 3 or 4 of this section.

3 8. When a petition has been filed, a child may waive his or  
4 her right to counsel only with the approval of the court and if  
5 such waiver is not prohibited under subsection 10 of this  
6 section. If a child waives his or her right to counsel for any  
7 proceeding except proceedings under subsection 10 of this  
8 section, the waiver shall only apply to that proceeding. In any  
9 subsequent proceeding, the child shall be informed of his or her  
10 right to counsel.

11 9. Waiver of counsel by a child may be withdrawn at any  
12 stage of the proceeding, in which event the court shall appoint  
13 counsel for the child if required by subsection 3 of this  
14 section.

15 10. A child's right to be represented by counsel shall not  
16 be waived in any of the following proceedings:

17 (1) At a detention hearing under Missouri supreme court  
18 rule 127.08;

19 (2) At a certification hearing under section 211.071 or a  
20 dismissal hearing under Missouri supreme court rule 129.04;

21 (3) At an adjudication hearing under Missouri supreme court  
22 rule 128.02 for any misdemeanor or felony offense, including the  
23 acceptance of an admission;

24 (4) At a dispositional hearing under Missouri supreme court  
25 rule 128.03; or

26 (5) At a hearing on a motion to modify or revoke  
27 supervision under subdivision (2) or (3) of subsection 1 of  
28 section 211.031."; and

29 Further amend the title and enacting clause accordingly.