

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/HS/House Bill No. 432, Page 52, Section 210.1225, Line 12,

2 by inserting after all of said line the following:

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

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

13 3. (1) When a petition has been filed under
14 subdivision (2) or (3) of subsection 1 of section 211.031,
15 the court ~~[shall]~~ may appoint counsel for the child except
16 if private counsel has entered his or her appearance on
17 behalf of the child or if counsel has been waived in
18 accordance with law; except that, counsel shall not be
19 waived for any proceeding specified under subsection 10 of
20 this section unless the child has had the opportunity to
21 meaningfully consult with counsel and the court has
22 conducted a hearing on the record.

23 (2) If a child waives his or her right to counsel,
24 such waiver shall be made in open court and be recorded and
25 in writing and shall be made knowingly, intelligently, and
26 voluntarily. In determining whether a child has knowingly,

27 intelligently, and voluntarily waived his or her right to
28 counsel, the court shall look to the totality of the
29 circumstances including, but not limited to, the child's
30 age, intelligence, background, and experience generally and
31 in the court system specifically; the child's emotional
32 stability; and the complexity of the proceedings.

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

36 (1) That the custodian is indigent; and

37 (2) That the custodian desires the appointment of
38 counsel; and

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

41 5. Counsel shall be allowed a reasonable time in which
42 to prepare to represent his client.

43 6. Counsel shall serve for all stages of the
44 proceedings, including appeal, unless relieved by the court
45 for good cause shown. If no appeal is taken, services of
46 counsel are terminated following the entry of an order of
47 disposition.

48 7. The child and his custodian may be represented by
49 the same counsel except where a conflict of interest
50 exists. Where it appears to the court that a conflict
51 exists, it shall order that the child and his custodian be
52 represented by separate counsel, and it shall appoint
53 counsel if required by subsection 3 or 4 of this section.

54 8. When a petition has been filed, a child may waive
55 his or her right to counsel only with the approval of the
56 court and if such waiver is not prohibited under subsection
57 10 of this section. If a child waives his or her right to
58 counsel for any proceeding except proceedings under
59 subsection 10 of this section, the waiver shall only apply

60 to that proceeding. In any subsequent proceeding, the child
61 shall be informed of his or her right to counsel.

62 9. Waiver of counsel by a child may be withdrawn at
63 any stage of the proceeding, in which event the court shall
64 appoint counsel for the child if required by subsection 3 of
65 this section.

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

68 (1) At any contested detention hearing under Missouri
69 supreme court rule 127.08 where the petitioner alleges that
70 the child violated any law that, if committed by an adult,
71 would be a felony unless an agreement is otherwise reached;

72 (2) At a certification hearing under section 211.071
73 or a dismissal hearing under Missouri supreme court rule
74 129.04;

75 (3) At an adjudication hearing under Missouri supreme
76 court rule 128.02 for any felony offense or at any detention
77 hearing arising from a misdemeanor or felony motion to
78 modify or revoke, including the acceptance of an admission;

79 (4) At a dispositional hearing under Missouri supreme
80 court rule 128.03; or

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

84 Further amend the title and enacting clause accordingly.