

FIRST REGULAR SESSION

SENATE BILL NO. 440

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

1998S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 211, RSMo, by adding thereto one new section relating to juvenile detention.

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

Section A. Chapter 211, RSMo, is amended by adding thereto
2 one new section, to be known as section 211.072, to read as
3 follows:

211.072. 1. A juvenile, under the age of eighteen,
2 who has been certified to stand trial as an adult for
3 offenses pursuant to section 211.071, if currently placed in
4 a secure juvenile detention facility, shall remain in a
5 secure juvenile detention facility, pending finalization of
6 the judgment and completion of appeal, if any, of the
7 judgment dismissing the juvenile petition to allow for
8 prosecution under the general law unless otherwise ordered
9 by the juvenile court. Upon the judgment dismissing the
10 petition to allow prosecution under the general laws
11 becoming final, and adult charges being filed, if the
12 juvenile is currently in a secure juvenile detention
13 facility, the juvenile shall remain in such facility unless
14 the juvenile posts bond or the juvenile is transferred to an
15 adult jail. If the juvenile officer does not believe
16 detention would be the appropriate placement or would
17 continue to serve as the appropriate placement, the juvenile
18 officer may file a motion in the adult criminal case,
19 requesting that the juvenile be transferred from a secure

20 juvenile detention facility to an adult jail. The court
21 shall hear evidence relating to the appropriateness of the
22 juvenile remaining in a secure juvenile detention facility
23 or being transferred to an adult jail. At said hearing, the
24 following shall have the right to be present and have the
25 opportunity to present evidence and recommendations at such
26 hearing: the juvenile; the juvenile's parents; the
27 juvenile's counsel, the prosecuting attorney, the juvenile
28 officer or their designee for the circuit in which the
29 juvenile was certified; the juvenile officer or their
30 designee for the circuit in which the pre-trial certified
31 juvenile is proposed to be held, if different, counsel for
32 the juvenile officer, and representatives of the county
33 proposed to have custody of the pre-trial certified juvenile.

34 2. Following said hearing, the court shall order that
35 the juvenile continue to be held in a secure juvenile
36 detention facility subject to all Missouri juvenile
37 detention standards or shall order that the pre-trial
38 certified juvenile be held in an adult jail, but only after
39 the court has made findings that it would be in the best
40 interest of justice to move the pre-trial certified juvenile
41 to an adult jail. The court shall weigh the following
42 factors when deciding whether to detain a certified juvenile
43 in an adult facility:

- 44 (1) The certified juvenile's age;
- 45 (2) The certified juvenile's physical and mental
46 maturity;
- 47 (3) The certified juvenile's present mental state,
48 including whether they present an imminent risk of self-harm;
- 49 (4) The nature and circumstances of the charges;
- 50 (5) The certified juvenile's history of delinquency;

51 (6) The relative ability of the available adult and
52 juvenile facilities to both meet the needs of the certified
53 juvenile but to protect the public and other youth in their
54 custody;

55 (7) The opinion of the juvenile officer in the circuit
56 of the proposed placement as to the ability of that juvenile
57 detention facility to provide for appropriate care, custody,
58 and control of the pre-trial certified juvenile;

59 (8) Any other relevant factor.

60 3. In the event the court finds that it is in the best
61 interest of justice to require the certified juvenile to be
62 held in an adult jail, the court shall hold a hearing once
63 every thirty days to determine whether the placement of the
64 certified juvenile in an adult jail is still in the best
65 interests of justice.

66 4. A certified juvenile cannot be held in an adult
67 jail for more than one hundred eighty days unless the court
68 finds, for good cause, that an extension is necessary or the
69 juvenile, through counsel, waives the one hundred eighty day
70 maximum period.

71 5. Effective December 21, 2021, all previously pre-
72 trial, certified juveniles, under the age of eighteen, who
73 had been certified prior to August 28, 2021, shall be
74 transferred from adult jail to a secure juvenile detention
75 facility, unless a hearing is held and the court finds,
76 based upon the factors in subsection 2 of this section, that
77 it would be in the best interest of justice to keep the
78 juvenile in the adult jail.

79 6. All pre-trial, certified juveniles, under the age
80 of eighteen years, who are held in adult jails pursuant to
81 the best interest of justice exception shall continue to be
82 subject to the protections of the Prison Rape Elimination

83 Act (PREA) and shall be physically separated from adult
84 inmates.

85 7. If the certified juvenile remains in juvenile
86 detention, the juvenile officer may file a motion to
87 reconsider placement. The court shall consider the factors
88 set out in subsection 2 of this section and the individuals
89 set forth in subsection 1 of this section shall have a right
90 to be present and present evidence. The court may amend its
91 earlier order in light of the evidence and arguments
92 presented at the hearing if the court finds that it would
93 not be in the best interest of justice for the juvenile to
94 remain in a secure juvenile detention facility.

95 8. Issues related to the setting of, and posting of,
96 bond along with any bond forfeiture proceedings shall be
97 held in the pre-trial certified juvenile's adult criminal
98 case.

99 9. Upon attaining age of eighteen years or upon
100 conviction on the adult charges, the juvenile shall be
101 transferred from juvenile detention to the appropriate adult
102 facility.

103 10. Any responsibility for transportation of the
104 certified juvenile who remains in a secure juvenile
105 detention facility shall be handled in the same manner as in
106 all other adult criminal cases where the defendant is in
107 custody.

108 11. The per diem provisions as set forth in section
109 211.156 shall apply to certified juveniles who are being
110 held in a secure juvenile detention facility.

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