

SECOND REGULAR SESSION

# SENATE BILL NO. 1381

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SCHROER.

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5385S.02I

KRISTINA MARTIN, Secretary

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### AN ACT

To repeal sections 211.031, 211.061, 211.063, 211.071, and 211.141, RSMo, and to enact in lieu thereof five new sections relating to the juvenile justice system.

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

Section A. Sections 211.031, 211.061, 211.063, 211.071,  
2 and 211.141, RSMo, are repealed and five new sections enacted  
3 in lieu thereof, to be known as sections 211.031, 211.061,  
4 211.063, 211.071, and 211.141, to read as follows:

211.031. 1. Except as otherwise provided in this  
2 chapter, the juvenile court or the family court in circuits  
3 that have a family court as provided in chapter 487 shall  
4 have exclusive original jurisdiction in proceedings:

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

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

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

17 (b) The child is otherwise without proper care,  
18 custody or support;

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

23 (d) The child is in need of mental health **or juvenile**  
24 **court** services and the parent, guardian or custodian is  
25 unable to afford or access appropriate mental health  
26 treatment or care for the child;

30 (a) The child while subject to compulsory school  
31 attendance is repeatedly and without justification absent  
32 from school;

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

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

38 (d) The behavior or associations of the child are  
39 otherwise injurious to his or her welfare or to the welfare  
40 of others; or

49 municipal ordinance or regulation prohibiting possession or  
50 use of any tobacco product;

51 (3) Involving any child who is alleged to have  
52 violated a state law or municipal ordinance, or any person  
53 who is alleged to have violated a state law or municipal  
54 ordinance prior to attaining the age of eighteen years, in  
55 which cases jurisdiction **[may]** **shall** be taken by the court  
56 of the circuit in which the violation is **or violations are**  
57 alleged to have occurred, except as provided in subsection 2  
58 of this section; except that, the juvenile court shall not  
59 have jurisdiction over any child fifteen years of age who is  
60 alleged to have violated a state or municipal traffic  
61 ordinance or regulation, the violation of which does not  
62 constitute a **dangerous** felony **as defined in section 556.061**,  
63 and except that the juvenile court shall have concurrent  
64 jurisdiction with the municipal court over any child who is  
65 alleged to have violated a municipal curfew ordinance, and  
66 except that the juvenile court shall have concurrent  
67 jurisdiction with the circuit court on any child who is  
68 alleged to have violated a state or municipal ordinance or  
69 regulation prohibiting possession or use of any tobacco  
70 product;

71 (4) For the adoption of a person;

72 (5) For the commitment of a child to the guardianship  
73 of the department of social services as provided by law;

74 (6) Involving an order of protection pursuant to  
75 chapter 455 when the respondent is less than eighteen years  
76 of age; and

77 (7) Involving a child who has been a victim of sex  
78 trafficking or sexual exploitation.

79       2. Transfer of a matter, proceeding, jurisdiction or  
80 supervision for a child who resides in a county of this  
81 state shall be made as follows:

82       (1) Prior to the filing of a petition and upon request  
83 of any party or at the discretion of the juvenile officer,  
84 the matter in the interest of a child may be transferred by  
85 the juvenile officer, with the prior consent of the juvenile  
86 officer of the receiving court, to the county of the child's  
87 residence or the residence of the person eighteen years of  
88 age for future action;

89       (2) Upon the motion of any party or on its own motion  
90 prior to final disposition on the pending matter, the court  
91 in which a proceeding is commenced may transfer the  
92 proceeding of a child to the court located in the county of  
93 the child's residence, or the county in which the offense  
94 pursuant to subdivision (3) of subsection 1 of this section  
95 is alleged to have occurred for further action;

96       (3) Upon motion of any party or on its own motion, the  
97 court in which jurisdiction has been taken pursuant to  
98 subsection 1 of this section may at any time thereafter  
99 transfer jurisdiction of a child to the court located in the  
100 county of the child's residence for further action with the  
101 prior consent of the receiving court;

102       (4) Upon motion of any party or upon its own motion at  
103 any time following a judgment of disposition or treatment  
104 pursuant to section 211.181, the court having jurisdiction  
105 of the cause may place the child under the supervision of  
106 another juvenile court within or without the state pursuant  
107 to section 210.570 with the consent of the receiving court;

108       (5) Upon motion of any child or his or her parent, the  
109 court having jurisdiction shall grant one change of judge  
110 pursuant to Missouri supreme court rules;

111 (6) Upon the transfer of any matter, proceeding,  
112 jurisdiction or supervision of a child, certified copies of  
113 all legal and social documents and records pertaining to the  
114 case on file with the clerk of the transferring juvenile  
115 court shall accompany the transfer;

116 (7) Upon motion of the prosecuting or circuit attorney  
117 where the alleged offense or offenses occurred to the court  
118 of general jurisdiction to prosecute the alleged crime or  
119 crimes under the general law, the court shall transfer  
120 jurisdiction if it is alleged that the juvenile officer  
121 failed to perform the proper risk and needs assessment  
122 described under subsection 4 of section 211.141.

123           3. In any proceeding involving any child taken into  
124 custody in a county other than the county of the child's  
125 residence, the juvenile court of the county of the child's  
126 residence shall be notified of such taking into custody  
127 within seventy-two hours.

128       4. When an investigation by a juvenile officer  
129      pursuant to this section reveals that the only basis for  
130      action involves an alleged violation of section 167.031  
131      involving a child who alleges to be receiving instruction at  
132      a home school or an FPE school, the juvenile officer shall  
133      contact a parent or parents of such child to verify that the  
134      child is receiving instruction at such school and not in  
135      violation of section 167.031 before making a report of such  
136      a violation. Any report of a violation of section 167.031  
137      made by a juvenile officer regarding a child who is  
138      receiving instruction at a home school or an FPE school  
139      shall be made to the prosecuting attorney of the county  
140      where the child legally resides.

141           5. The disability or disease of a parent shall not  
142 constitute a basis for a determination that a child is a

143 child in need of care or for the removal of custody of a  
144 child from the parent without a specific showing that there  
145 is a causal relation between the disability or disease and  
146 harm to the child.

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

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

20 3. When the juvenile court is informed that a child is  
21 in detention it shall examine the reasons therefor,  
22 **including the risk and needs assessment described under**  
23 **subsection 4 of section 211.141**, and shall immediately:

24 (1) Order the child released; or  
25 (2) Order the child continued in detention until a  
26 detention hearing is held. An order to continue the child  
27 in detention shall only be entered upon the filing of a  
28 petition or motion to modify and a determination by the

29 court that probable cause exists to believe that the child  
30 has committed acts specified in the petition or motion that  
31 bring the child within the jurisdiction of the court under  
32 subdivision (2) or (3) of subsection 1 of section 211.031.

33       4. A juvenile shall not remain in detention for a  
34 period greater than twenty-four hours unless the court  
35 orders a detention hearing. If such hearing is not held  
36 within three days, excluding Saturdays, Sundays and legal  
37 holidays, the juvenile shall be released from detention  
38 unless the court for good cause orders the hearing  
39 continued. The detention hearing shall be held within the  
40 judicial circuit at a date, time and place convenient to the  
41 court. Notice of the date, time and place of a detention  
42 hearing, and of the right to counsel, shall be given to the  
43 juvenile and his or her custodian in person, by telephone,  
44 or by such other expeditious method as is available.

2       211.063. 1. A child accused of violating the  
3 provisions of subdivision (2) of subsection 1 of section  
4 211.031 shall not be held in a secure detention placement  
5 for a period greater than twenty-four hours, excluding  
6 Saturdays, Sundays and legal holidays, unless the court  
7 finds pursuant to a probable cause hearing held within that  
8 twenty-four-hour period, that the child has violated the  
conditions of a valid court order and that:

9           (1) The child has a record of willful failure to  
10 appear at juvenile court proceedings; or

11           (2) The child has a record of violent conduct  
12 resulting in physical injury to self or others; [or]

13           (3) The child has a record of leaving a court-ordered  
14 placement, other than secure detention, without permission;  
15 or

16                   **(4) The child has a record of repeated alleged**  
17 **violations of state or municipal laws during the immediate**  
18 **preceding sixty days that supports the good faith belief**  
19 **that the child will continue to violate state or municipal**  
20 **laws and will pose a risk to the safety and well-being of**  
21 **others if released.**

22                   2. As used in this section, the following terms mean:

23                   (1) "Secure detention", any public or private  
24 residential facility used for the temporary placement of any  
25 child if such facility includes construction fixtures  
26 designed to physically restrict the movements and activities  
27 of children held in the lawful custody of such facility;

28                   (2) "Valid court order", an order issued by a court of  
29 competent jurisdiction regarding a child who has been  
30 brought before the court, which sets forth specific  
31 conditions of behavior for the child and consequences of  
32 violations of such conditions.

33                   3. This section shall not apply:

34                   (1) To a child who has been taken under the  
35 jurisdiction of the court pursuant to subdivision (3) of  
36 subsection 1 of section 211.031; or

37                   (2) To a child who was adjudicated pursuant to  
38 subdivision (3) of subsection 1 of section 211.031 after  
39 being taken under the jurisdiction of the court; or

40                   (3) To a child who is currently charged with a  
41 violation under subdivision (3) of subsection 1 of section  
42 211.031.

211.071. 1. If a petition or motion to modify alleges  
2 that a child between the ages of fourteen and eighteen has  
3 committed an offense that would be considered a felony if  
4 committed by an adult, the court may, upon its own motion or  
5 upon motion by the **prosecuting or circuit attorney**, juvenile

6 officer, the child, or the child's custodian, order a  
7 hearing and may, in its discretion, dismiss the petition or  
8 motion to modify and such child may be transferred to the  
9 court of general jurisdiction and prosecuted under the  
10 general law; except that, if a petition alleges that a child  
11 between the ages of twelve and eighteen has committed an  
12 offense that would be considered first degree murder under  
13 section 565.020, second degree murder under section 565.021,  
14 first degree assault under section 565.050, forcible rape  
15 under section 566.030 as it existed prior to August 28,  
16 2013, rape in the first degree under section 566.030,  
17 forcible sodomy under section 566.060 as it existed prior to  
18 August 28, 2013, sodomy in the first degree under section  
19 566.060, first degree robbery under section 569.020 as it  
20 existed prior to January 1, 2017, robbery in the first  
21 degree under section 570.023, distribution of drugs under  
22 section 195.211 as it existed prior to January 1, 2017, or  
23 the manufacturing of a controlled substance under section  
24 579.055, if committed by an adult, or a dangerous felony as  
25 defined in section 556.061, or any felony involving the use,  
26 assistance, or aid of a deadly weapon, or has committed two  
27 or more prior unrelated offenses that would be felonies if  
28 committed by an adult, the court shall order a hearing, and  
29 may, in its discretion, dismiss the petition or motion to  
30 modify and transfer the child to a court of general  
31 jurisdiction for prosecution under the general law.

32 2. Upon apprehension and arrest, jurisdiction over the  
33 criminal offense **or offenses** allegedly committed by any  
34 person between eighteen and twenty-one years of age over  
35 whom the juvenile court has retained continuing jurisdiction  
36 shall automatically terminate and that offense shall be

37 dealt with in the court of general jurisdiction as provided  
38 in section 211.041.

39       3. Knowing and willful age misrepresentation by a  
40 juvenile subject shall not affect any action or proceeding  
41 which occurs based upon the misrepresentation. Any evidence  
42 obtained during the period of time in which a child  
43 misrepresents his or her age may be used against the child  
44 and will be subject only to rules of evidence applicable in  
45 adult proceedings.

46       4. Written notification of a transfer hearing shall be  
47 given to the juvenile and his or her custodian in the same  
48 manner as provided in sections 211.101 and 211.111. Notice  
49 of the hearing may be waived by the custodian. Notice shall  
50 contain a statement that the purpose of the hearing is to  
51 determine whether the child is a proper subject to be dealt  
52 with under the provisions of this chapter, and that if the  
53 court finds that the child is not a proper subject to be  
54 dealt with under the provisions of this chapter, the  
55 petition or motion to modify will be dismissed to allow for  
56 prosecution of the child under the general law.

57       5. The juvenile officer may consult with the office of  
58 prosecuting attorney concerning any offense for which the  
59 child could be certified as an adult under this section.  
60 The prosecuting or circuit attorney shall have access to  
61 police reports, reports of the juvenile or deputy juvenile  
62 officer, statements of witnesses and all other records or  
63 reports relating to the offense alleged to have been  
64 committed by the child. The prosecuting or circuit attorney  
65 shall have access to the disposition records of the child  
66 when the child has been adjudicated pursuant to subdivision  
67 (3) of subsection 1 of section 211.031. The prosecuting  
68 attorney shall not divulge any information regarding the

69 child and the offense until the juvenile court at a judicial  
70 hearing has determined that the child is not a proper  
71 subject to be dealt with under the provisions of this  
72 chapter. **The prosecuting or circuit attorney may make a**  
**73 motion to transfer the matter to the court of general**  
**74 jurisdiction where the alleged offense or offenses occurred**  
**75 to prosecute the alleged offense or offenses if it is**  
**76 alleged that the juvenile officer failed to perform the risk**  
**77 and needs assessment described under subsection 4 of section**  
**78 211.141.**

79       6. A written report shall be prepared in accordance  
80 with this chapter developing fully all available information  
81 relevant to the criteria which shall be considered by the  
82 court in determining whether the child is a proper subject  
83 to be dealt with under the provisions of this chapter and  
84 whether there are reasonable prospects of rehabilitation  
85 within the juvenile justice system. These criteria shall  
86 include but not be limited to:

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

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

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

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

98       (5) The record and history of the child, including  
99 experience with the juvenile justice system, other courts,

100 supervision, commitments to juvenile institutions and other  
101 placements;

102 (6) The sophistication and maturity of the child as  
103 determined by consideration of his or her home and  
104 environmental situation, emotional condition and pattern of  
105 living;

106 (7) The age of the child;

107 (8) The program and facilities available to the  
108 juvenile court in considering disposition;

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

112 (10) Racial disparity in certification.

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

116 (1) Findings showing that the court had jurisdiction  
117 of the cause and of the parties;

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

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

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

124 8. A copy of the petition or motion to modify and  
125 order of the dismissal shall be sent to the prosecuting  
126 attorney.

127 9. When a petition or motion to modify has been  
128 dismissed thereby permitting a child to be prosecuted under  
129 the general law and the prosecution of the child results in  
130 a conviction, the jurisdiction of the juvenile court over  
131 that child is forever terminated, except as provided in

132 subsection 10 of this section, for an act that would be a  
133 violation of a state law or municipal ordinance.

134 10. If a petition or motion to modify has been  
135 dismissed thereby permitting a child to be prosecuted under  
136 the general law and the child is found not guilty by a court  
137 of general jurisdiction, the juvenile court shall have  
138 jurisdiction over any later offense committed by that child  
139 which would be considered a misdemeanor or felony if  
140 committed by an adult, subject to the certification  
141 provisions of this section.

142 11. If the court does not dismiss the petition or  
143 motion to modify to permit the child to be prosecuted under  
144 the general law, it shall set a date for the hearing upon  
145 the petition as provided in section 211.171.

211.141. 1. When a child is taken into custody as  
2 provided in section 211.131, the person taking the child  
3 into custody shall, unless it has been otherwise ordered by  
4 the court, return the child to his or her parent, guardian  
5 or legal custodian on the promise of such person to bring  
6 the child to court, if necessary, at a stated time or at  
7 such times as the court may direct. The court may also  
8 impose other conditions relating to activities of the  
9 child. If these additional conditions are not met, the  
10 court may order the child detained as provided in section  
11 211.151. If additional conditions are imposed, the child  
12 shall be notified that failure to adhere to the conditions  
13 may result in the court imposing more restrictive conditions  
14 or ordering the detention of the child. If the person  
15 taking the child into custody believes it desirable, he may  
16 request the parent, guardian or legal custodian to sign a  
17 written promise to bring the child into court and  
18 acknowledging any additional conditions imposed on the child.

19       2. If the child is not released as provided in  
20 subsection 1 of this section, he or she may be conditionally  
21 released or detained in any place of detention specified in  
22 section 211.151 but only on order of the court specifying  
23 the reason for the conditional release or the detention.  
24 The parent, guardian or legal custodian of the child shall  
25 be notified of the terms of the conditional release or the  
26 place of detention as soon as possible.

27       3. The juvenile officer may conditionally release or  
28 detain a child for a period not to exceed twenty-four hours  
29 if it is impractical to obtain a written order from the  
30 court because of the unreasonableness of the hour or the  
31 fact that it is a Sunday or holiday. The conditional  
32 release shall be as provided in subsection 1 of this  
33 section, and the detention shall be as provided in section  
34 211.151. A written record of such conditional release or  
35 detention shall be kept and a report in writing filed with  
36 the court. In the event that the judge is absent from his  
37 circuit, or is unable to act, the approval of another  
38 circuit judge of the same or adjoining circuit must be  
39 obtained as a condition or continuing the conditional  
40 release or detention of a child for more than twenty-four  
41 hours.

42       4. In any matter referred to the juvenile court  
43 pursuant to section 211.031, the juvenile officer shall make  
44 a risk and needs assessment of the child and, before the  
45 disposition of the matter, shall report the results of the  
46 assessment to the juvenile court. **The juvenile officer**  
47 **shall use a cumulative total of points assessed for all**  
48 **alleged offenses committed by the child, as well as all**  
49 **alleged offenses committed by the child within the previous**  
50 **sixty days, to determine whether or not the juvenile court**

51 shall order the child to be detained as provided in section  
52 211.151. If a juvenile officer fails to strictly abide by  
53 the provisions of this section in assessing the risks and  
54 needs of the child, the prosecuting or circuit attorney in  
55 the jurisdiction in which the child is alleged to have  
56 committed the offense or offenses shall have the authority  
57 to make a motion to transfer the case or cases involving the  
58 child to the court of general jurisdiction and to prosecute  
59 the case or cases under general law. The assessment shall  
60 be written on a standardized form approved by the office of  
61 state courts administrator.

62 5. The division, in cooperation with juvenile officers  
63 and juvenile courts, shall at least biennially review a  
64 random sample of assessments of children and the disposition  
65 of each child's case to recommend assessment and disposition  
66 equity throughout the state. Such review shall identify any  
67 evidence of racial disparity in certification. Such review  
68 shall be conducted in a manner which protects the  
69 confidentiality of the cases examined.

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