

SECOND REGULAR SESSION

SENATE BILL NO. 1381

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5385S.02I

KRISTINA MARTIN, Secretary

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.

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2 and 211.141, RSMo, are repealed and five new sections enacted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.

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

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

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

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

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

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

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

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

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a **dangerous felony as defined in section 556.061**, or any child who is alleged to have violated a state 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.

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

supervision, commitments to juvenile institutions and other placements;

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

(7) The age of the child;

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

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

(10) Racial disparity in certification.

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

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

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

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

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

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

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

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

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

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

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