

SENATE BILL NO. 1649

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

7070S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 211.061, RSMo, and to enact in lieu thereof one new section relating to the detention of a juvenile.

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

Section A. Section 211.061, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 211.061,
3 to read as follows:

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 and shall
22 immediately:

23 (1) Order the child released; or

24 (2) Order the child continued in detention until a
25 detention hearing is held. An order to continue the child
26 in detention shall only be entered upon the filing of a
27 petition or motion to modify and a determination by the
28 court that probable cause exists to believe that the child
29 has committed acts specified in the petition or motion that
30 bring the child within the jurisdiction of the court under
31 subdivision (2) or (3) of subsection 1 of section 211.031.

32 4. **(1)** A juvenile shall not remain in detention for a
33 period greater than twenty-four hours unless the court
34 orders a detention hearing. If such hearing is not held
35 within three days, excluding Saturdays, Sundays and legal
36 holidays, the juvenile shall be released from detention
37 unless the court for good cause orders the hearing
38 continued. The detention hearing shall be held within the
39 judicial circuit at a date, time and place convenient to the
40 court. Notice of the date, time and place of a detention
41 hearing, and of the right to counsel, shall be given to the
42 juvenile and his or her custodian in person, by telephone,
43 or by such other expeditious method as is available.

44 **(2) The detention hearing shall be held on the record**
45 **and is subject to the same procedural and substantive rules**
46 **as a preliminary hearing in a criminal prosecution.**

47 **(3) The court shall first inform the juvenile of the**
48 **juvenile's right to counsel, including the right to**
49 **appointed counsel under section 211.211.**

50 (4) The court shall receive evidence as to whether
51 there is probable cause to believe an offense has been
52 committed and the juvenile has committed it. The court
53 shall also receive evidence relevant to the necessity for
54 detention of the juvenile. Any written reports or social
55 records to be offered to the court at the detention hearing
56 shall be made available to all parties at or prior to the
57 hearing.

58 (5) The juvenile shall not be detained unless the
59 court finds that:

60 (a) There is probable cause to believe an offense has
61 been committed and the juvenile has committed it; and

62 (b) Detention is required:

63 a. To protect the juvenile;

64 b. To protect persons or property of others;

65 c. Because the juvenile may flee or be removed from
66 the jurisdiction of the court;

67 d. Because the juvenile has no parent, guardian or
68 custodian, or other suitable person able or willing to
69 provide care and supervision for the juvenile and return the
70 juvenile to court when required; or

71 e. Because the juvenile is a fugitive from another
72 jurisdiction and an official of that jurisdiction has
73 requested the juvenile be detained pending return to that
74 jurisdiction.

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