

# SENATE BILL NO. 888

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5440S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 211.071, RSMo, and to enact in lieu thereof one new section relating to the juvenile justice system.

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

Section A. Section 211.071, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 211.071,  
3 to read as follows:

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 juvenile officer, **the office of the**  
6 **prosecuting or circuit attorney, the office of the attorney**  
7 **general if the attorney general is acting as a special**  
8 **prosecuting attorney,** the child, or the child's custodian,  
9 order a hearing **at which the prosecuting or circuit attorney**  
10 **or the attorney general may present evidence if the**  
11 **prosecuting or circuit attorney or the attorney general**  
12 **filed the petition,** and may, in its discretion, dismiss the  
13 petition or motion to modify and such child may be  
14 transferred to the court of general jurisdiction and  
15 prosecuted under the general law; except that, if a petition  
16 alleges that a child between the ages of twelve and eighteen  
17 has committed an offense that would be considered first

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

18 degree murder under section 565.020, second degree murder  
19 under section 565.021, first degree assault under section  
20 565.050, forcible rape under section 566.030 as it existed  
21 prior to August 28, 2013, rape in the first degree under  
22 section 566.030, forcible sodomy under section 566.060 as it  
23 existed prior to August 28, 2013, sodomy in the first degree  
24 under section 566.060, first degree robbery under section  
25 569.020 as it existed prior to January 1, 2017, robbery in  
26 the first degree under section 570.023, distribution of  
27 drugs under section 195.211 as it existed prior to January  
28 1, 2017, or the manufacturing of a controlled substance  
29 under section 579.055, if committed by an adult, or a  
30 dangerous felony as defined in section 556.061, or any  
31 felony involving the use, assistance, or aid of a deadly  
32 weapon, or has committed two or more prior unrelated  
33 offenses that would be felonies if committed by an adult,  
34 the court shall order a hearing, and may, in its discretion,  
35 dismiss the petition or motion to modify and transfer the  
36 child to a court of general jurisdiction for prosecution  
37 under the general law.

38 2. Upon apprehension and arrest, jurisdiction over the  
39 criminal offense allegedly committed by any person between  
40 eighteen and twenty-one years of age over whom the juvenile  
41 court has retained continuing jurisdiction shall  
42 automatically terminate and that offense shall be dealt with  
43 in the court of general jurisdiction as provided in section  
44 211.041.

45 3. Knowing and willful age misrepresentation by a  
46 juvenile subject shall not affect any action or proceeding  
47 which occurs based upon the misrepresentation. Any evidence  
48 obtained during the period of time in which a child  
49 misrepresents his or her age may be used against the child

50 and will be subject only to rules of evidence applicable in  
51 adult proceedings.

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

63 5. The juvenile officer **[may]** **shall** consult with the  
64 office of prosecuting **or circuit** attorney concerning any  
65 offense for which the child could be certified as an adult  
66 under this section. The prosecuting or circuit attorney  
67 shall **[have access to]** **be provided** police reports, reports  
68 of the juvenile or deputy juvenile officer, statements of  
69 witnesses, **a copy of the completed Missouri Juvenile**  
70 **Detention Assessment Form (JDTA) or similar form that was**  
71 **used in determining detention** and all other records or  
72 reports relating to the offense alleged to have been  
73 committed by the child. The prosecuting or circuit attorney  
74 shall have access to the disposition records of the child  
75 when the child has been adjudicated pursuant to subdivision  
76 (3) of subsection 1 of section 211.031. The prosecuting **or**  
77 **circuit** attorney shall not divulge any information regarding  
78 the child and the offense until the juvenile court at a  
79 judicial hearing has determined that the child is not a  
80 proper subject to be dealt with under the provisions of this  
81 chapter. **Any use of the JDTA or any other assessment system**

82 to determine that a child may be held shall be used as a  
83 guideline and shall not be mandatory.

84 6. In every incident, the juvenile officer shall  
85 consider all charges submitted by a law enforcement agency  
86 when utilizing the JDTA form to determine whether or not to  
87 detain a child and shall provide a copy of that completed  
88 JDTA form to the law enforcement agency once a determination  
89 has been made.

90 7. Juvenile officers shall share criminal history data  
91 with the Missouri Uniform Law Enforcement System (MULES) and  
92 the Regional Justice Information System (REJIS) in order to  
93 create a juvenile criminal history database that shall be  
94 accessible by criminal justice and law enforcement  
95 agencies.

96 8. A written report shall be prepared in accordance  
97 with this chapter developing fully all available information  
98 relevant to the criteria which shall be considered by the  
99 court in determining whether the child is a proper subject  
100 to be dealt with under the provisions of this chapter and  
101 whether there are reasonable prospects of rehabilitation  
102 within the juvenile justice system. These criteria shall  
103 include but not be limited to:

104 (1) The seriousness of the offense alleged and whether  
105 the protection of the community requires transfer to the  
106 court of general jurisdiction;

107 (2) Whether the offense alleged involved viciousness,  
108 force and violence;

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

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

(5) The record and history of the child, including 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.] 9.** 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.] 10.** A copy of the petition or motion to modify and order of the dismissal shall be sent to the prosecuting attorney.

144       [9.] 11. When a petition or motion to modify has been  
145 dismissed thereby permitting a child to be prosecuted under  
146 the general law and the prosecution of the child results in  
147 a conviction, the jurisdiction of the juvenile court over  
148 that child is forever terminated, except as provided in  
149 subsection 10 of this section, for an act that would be a  
150 violation of a state law or municipal ordinance.

151       [10.] 12. If a petition or motion to modify has been  
152 dismissed thereby permitting a child to be prosecuted under  
153 the general law and the child is found not guilty by a court  
154 of general jurisdiction, the juvenile court shall have  
155 jurisdiction over any later offense committed by that child  
156 which would be considered a misdemeanor or felony if  
157 committed by an adult, subject to the certification  
158 provisions of this section.

159       [11.] 13. If the court does not dismiss the petition  
160 or motion to modify to permit the child to be prosecuted  
161 under the general law, it shall set a date for the hearing  
162 upon the petition as provided in section 211.171.

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