

FIRST REGULAR SESSION

SENATE BILL NO. 264

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time January 13, 1999, and 1,000 copies ordered printed.

SI215.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 211.073, RSMo Supp. 1998, relating to juveniles, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 211.073, RSMo Supp. 1998, is repealed and one new section enacted in lieu thereof, to be known as section 211.073, to read as follows:

211.073. 1. The court may, in a case when the offender is under seventeen years of age and has been transferred to a court of general jurisdiction pursuant to section 211.071, and whose prosecution results in a conviction or a plea of guilty, invoke dual jurisdiction of both the criminal and juvenile codes, as set forth in this section. The court is authorized to impose a juvenile disposition under this chapter and simultaneously impose an adult criminal sentence, the execution of which shall be suspended pursuant to the provisions of this section. **In all cases the court retains jurisdiction over offenders whose cases are disposed of pursuant to this section, so long as the offender remains in the custody of the division of youth services under a dual jurisdiction disposition. Notwithstanding any provision of law which prohibits or otherwise restricts the granting of probation or the suspension of the execution of sentence of offenders convicted of certain offenses, the court may simultaneously suspend the execution of the adult sentence imposed for such offenses and impose a juvenile disposition pursuant to this section.** Successful completion of the juvenile disposition ordered shall be a condition of the suspended adult criminal sentence. The court may order an offender into the custody of the division of youth services pursuant to this section if:

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

(1) A facility is designed and built by the division of youth services specifically for offenders sentenced pursuant to this section and if the division determines that there is space available, based on design capacity, in the facility; and

(2) Upon agreement of the division.

2. If there is probable cause to believe that the offender has violated a condition of the suspended sentence or committed a new offense, the court shall conduct a hearing on the violation charged, unless the offender waives such hearing. If the violation is established and found the court [may continue or revoke the juvenile disposition, impose the adult criminal sentence, or enter such other order as it may see fit.] **shall:**

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections;

(2) Direct that the offender be placed on probation; or

(3) Direct that the offender remain in the custody of the division of youth services if the division agrees to such placement.

3. When an offender has received a suspended sentence pursuant to this section and the division determines the child is beyond the scope of its treatment programs, the division of youth services may petition the court for a transfer of custody of the offender. The court shall hold a hearing and shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections; or

(2) Direct that the offender be placed on probation.

Under no circumstances shall an offender remain in the division's custody after reaching age twenty-one.

4. When an offender who has received a suspended sentence reaches the age of seventeen, the court shall hold a hearing. The court shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections;

(2) Direct that the offender be placed on probation; or

(3) Direct that the offender remain in the custody of the division of youth services if the division agrees to such placement.

5. The division of youth services shall petition the court for a hearing before it releases an offender who comes within subsection 1 of this section at any time before the offender reaches the age of twenty-one years. The court shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections; or

(2) Direct that the offender be placed on probation.

6. If the suspension of the adult criminal sentence is revoked, all time served by the

offender under the juvenile disposition shall be credited toward the adult criminal sentence imposed.

7. In cases where the offender has violated a condition of the suspended sentence, committed a new offense, or is determined by the division to be beyond the scope of the division's treatment program, the division director or the director's designee is authorized to issue a warrant for the arrest of the offender pending a hearing required by subsection 2 or 3 of this section. The arrest warrant will outline the circumstances of the alleged violation including the circumstances of the division's beyond the scope determination and will be addressed to the appropriate law enforcement officer to effect the arrest of the offender. The arrest warrant delivered with the offender to the official in charge of any jail or detention facility shall be sufficient authority for detaining the offender pending a hearing required pursuant to subsection 2 or 3 of this section. The division director or the director's designee is also authorized to issue an arrest warrant as described above for the arrest of any offender who has escaped or run away from the division's custody.

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