

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 215

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), RUESTMAN, DIXON, CUNNINGHAM (86), MOORE, FISHER, WALLACE, NANCE, MUNZLINGER, DAY, SANDER AND SCHARNHORST (Co-sponsors).

Pre-filed January 2, 2007 and copies ordered printed.

Read 1st time January 3, 2007.

Read 2nd time January 4, 2007 and referred to the Special Committee on General Laws January 24, 2007.

Reported from the Special Committee on General Laws February 20, 2007 with recommendation that House Committee Substitute for House Bill No. 215 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules February 28, 2007 with recommendation that the bill be returned to the Committee of Origin.

Reported from the Special Committee on General Laws March 8, 2007 with recommendation that House Bill No. 215 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 15, 2007 with the recommendation that House Bill No. 215 Do Pass.

Taken up for Perfection April 18, 2007. Bill ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

0222L.01P

AN ACT

To repeal sections 167.031, 211.021, 211.033, 211.034, 211.041, 211.061, 211.071, 211.081, 211.091, 211.101, 211.161, and 211.181, RSMo, and to enact in lieu thereof twelve new sections relating to juvenile courts, with penalty provisions.

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

- Section A. Sections 167.031, 211.021, 211.033, 211.034, 211.041, 211.061, 211.071, 211.081, 211.091, 211.101, 211.161, and 211.181, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 167.031, 211.021, 211.033, 211.041, 211.061, 211.071, 211.081, 211.091, 211.101, 211.161, 211.181, and 1, to read as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

167.031. 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that:

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

(a) Has as its primary purpose the provision of private or religious-based instruction;

(b) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.

36 (2) As evidence that a child is receiving regular instruction, the parent shall, except as
37 otherwise provided in this subsection:

38 (a) Maintain the following records:

39 a. A plan book, diary, or other written record indicating subjects taught and activities
40 engaged in; and

41 b. A portfolio of samples of the child's academic work; and

42 c. A record of evaluations of the child's academic progress; or

43 d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

44 (b) Offer at least one thousand hours of instruction, at least six hundred hours of which
45 will be in reading, language arts, mathematics, social studies and science or academic courses
46 that are related to the aforementioned subject areas and consonant with the pupil's age and
47 ability. At least four hundred of the six hundred hours shall occur at the regular home school
48 location.

49 (3) The requirements of subdivision (2) of this subsection shall not apply to any pupil
50 above the age of sixteen years.

51 3. Nothing in this section shall require a private, parochial, parish or home school to
52 include in its curriculum any concept, topic, or practice in conflict with the school's religious
53 doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the
54 school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all
55 departments or agencies of the state of Missouri shall be prohibited from dictating through rule,
56 regulation or other device any statewide curriculum for private, parochial, parish or home
57 schools.

58 4. A school year begins on the first day of July and ends on the thirtieth day of June
59 following.

60 5. The production by a parent of a daily log showing that a home school has a course of
61 instruction which satisfies the requirements of this section or, in the case of a pupil over the age
62 of sixteen years who attended a metropolitan school district the previous year, a written
63 statement that the pupil is attending home school in compliance with this section shall be a
64 defense to any prosecution under this section and to any charge or action for educational neglect
65 brought pursuant to chapter 210, RSMo.

66 6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the
67 district" shall mean:

68 (1) Seventeen years of age for any metropolitan school district for which the school
69 board adopts a resolution to establish such compulsory attendance age; provided that such
70 resolution shall take effect no earlier than the school year next following the school year during
71 which the resolution is adopted; and

72 (2) Sixteen years of age in all other cases.

73

74 The school board of a metropolitan school district for which the compulsory attendance age is
75 seventeen years may adopt a resolution to lower the compulsory attendance age to sixteen years;
76 provided that such resolution shall take effect no earlier than the school year next following the
77 school year during which the resolution is adopted.

78 [7. The provisions of this section shall apply to any parent, guardian, or other person in
79 this state having charge, control, or custody of a child between the ages of fifteen and eighteen
80 if such child has not received a high school diploma or its equivalent and a court order has been
81 issued as to such child under section 211.034, RSMo.]

211.021. As used in this chapter, unless the context clearly requires otherwise:

2 (1) "Adult" means a person seventeen years of age or older **except for seventeen and**
3 **eighteen year old children as defined in this section;**

4 (2) "Child" means a person under seventeen years of age **except for status offenses**
5 **which shall mean a person seventeen or eighteen years of age. For purposes of this**
6 **chapter, any reference to "under the age of seventeen" includes any person seventeen or**
7 **eighteen alleged to have committed a status offense;**

8 (3) "Juvenile court" means the juvenile division or divisions of the circuit court of the
9 county, or judges while hearing juvenile cases assigned to them;

10 (4) "Legal custody" means the right to the care, custody and control of a child and the
11 duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline
12 of a child. Legal custody may be taken from a parent only by court action and if the legal
13 custody is taken from a parent without termination of parental rights, the parent's duty to provide
14 support continues even though the person having legal custody may provide the necessities of
15 daily living;

16 (5) "Parent" means either a natural parent or a parent by adoption and if the child is
17 illegitimate, "parent" means the mother;

18 (6) "Shelter care" means the temporary care of juveniles in physically unrestricting
19 facilities pending final court disposition. These facilities may include:

20 (a) "Foster home", the private home of foster parents providing twenty-four-hour care
21 to one to three children unrelated to the foster parents by blood, marriage or adoption;

22 (b) "Group foster home", the private home of foster parents providing twenty-four-hour
23 care to no more than six children unrelated to the foster parents by blood, marriage or adoption;

24 (c) "Group home", a child care facility which approximates a family setting, provides
25 access to community activities and resources, and provides care to no more than twelve children;

26 (7) "Status offense", any offense not a violation of criminal code or municipal
27 ordinance.

211.033. 1. No person under the age of seventeen years, except those transferred to the
2 court of general jurisdiction under the provisions of section 211.071 shall be detained in a jail
3 or other adult detention facility as that term is defined in section 211.151. A traffic court judge
4 may request the juvenile court to order the commitment of a person under the age of seventeen
5 to a juvenile detention facility.

6 2. Nothing in this section shall be construed as creating any civil or criminal
7 liability for any law enforcement officer, juvenile officer, school personnel, or court
8 personnel for any action taken or failure to take any action involving a minor child who
9 remains under the jurisdiction of the juvenile court under this section if such action or
10 failure to take action is based on a good faith belief by such officer or personnel that the
11 minor child is not under the jurisdiction of the juvenile court.

211.041. When jurisdiction over the person of a child has been acquired by the juvenile
2 court under the provisions of this chapter in proceedings coming within the applicable provisions
3 of section 211.031, the jurisdiction of the child may be retained for the purpose of this chapter
4 until he **or she** has attained the age of twenty-one years, except in cases where he **or she** is
5 committed to and received by the division of youth services, unless jurisdiction has been returned
6 to the committing court by provisions of chapter 219, RSMo, through requests of the court to the
7 division of youth services and except in any case where he **or she** has not paid an assessment
8 imposed in accordance with section 211.181 or in cases where the judgment for restitution
9 entered in accordance with section 211.185 has not been satisfied. Every child over whose
10 person the juvenile court retains jurisdiction shall be prosecuted under the general law for any
11 violation of a state law or of a municipal ordinance which he **or she** commits after he **or she**
12 becomes seventeen years of age. The juvenile court shall have no jurisdiction with respect to any
13 such violation and, so long as it retains jurisdiction of the child, shall not exercise its jurisdiction
14 in such a manner as to conflict with any other court's jurisdiction as to any such violation.

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

5 2. If any person is taken before a circuit or associate circuit judge not assigned to
6 juvenile court or a municipal judge, and it is then, or at any time thereafter, ascertained that he
7 **or she** was under the age of seventeen years at the time he **or she** is alleged to have committed
8 the offense, or that he **or she** is subject to the jurisdiction of the juvenile court as provided by this
9 chapter, it is the duty of the judge forthwith to transfer the case or refer the matter to the juvenile

10 court, and direct the delivery of such person, together with information concerning him **or her**
11 and the personal property found in his **or her** possession, to the juvenile officer or person acting
12 as such.

13 3. When the juvenile court is informed that a child is in detention it shall examine the
14 reasons therefor and shall immediately:

15 (1) Order the child released; or

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

21 4. A juvenile shall not remain in detention for a period greater than twenty-four hours
22 unless the court orders a detention hearing. If such hearing is not held within three days,
23 excluding Saturdays, Sundays and legal holidays, the juvenile shall be released from detention
24 unless the court for good cause orders the hearing continued. The detention hearing shall be held
25 within the judicial circuit at a date, time and place convenient to the court. Notice of the date,
26 time and place of a detention hearing, and of the right to counsel, shall be given to the juvenile
27 and his **or her** custodian in person, by telephone, or by such other expeditious method as is
28 available.

211.071. 1. If a petition alleges that a child between the ages of twelve and seventeen
2 has committed an offense which would be considered a felony if committed by an adult, the court
3 may, upon its own motion or upon motion by the juvenile officer, the child or the child's
4 custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be
5 transferred to the court of general jurisdiction and prosecuted under the general law; except that
6 if a petition alleges that any child has committed an offense which would be considered first
7 degree murder under section 565.020, RSMo, second degree murder under section 565.021,
8 RSMo, first degree assault under section 565.050, RSMo, forcible rape under section 566.030,
9 RSMo, forcible sodomy under section 566.060, RSMo, first degree robbery under section
10 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two
11 or more prior unrelated offenses which would be felonies if committed by an adult, the court
12 shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a
13 court of general jurisdiction for prosecution under the general law.

14 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly
15 committed by any person between seventeen and twenty-one years of age over whom the juvenile
16 court has retained continuing jurisdiction shall automatically terminate and that offense shall be
17 dealt with in the court of general jurisdiction as provided in section 211.041.

18 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any
19 action or proceeding which occurs based upon the misrepresentation. Any evidence obtained
20 during the period of time in which a child misrepresents his **or her** age may be used against the
21 child and will be subject only to rules of evidence applicable in adult proceedings.

22 4. Written notification of a transfer hearing shall be given to the juvenile and his **or her**
23 custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the
24 hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the
25 hearing is to determine whether the child is a proper subject to be dealt with under the provisions
26 of this chapter, and that if the court finds that the child is not a proper subject to be dealt with
27 under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the
28 child under the general law.

29 5. The juvenile officer may consult with the office of prosecuting attorney concerning
30 any offense for which the child could be certified as an adult under this section. The prosecuting
31 or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile
32 officer, statements of witnesses and all other records or reports relating to the offense alleged to
33 have been committed by the child. The prosecuting or circuit attorney shall have access to the
34 disposition records of the child when the child has been adjudicated pursuant to subdivision (3)
35 of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information
36 regarding the child and the offense until the juvenile court at a judicial hearing has determined
37 that the child is not a proper subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

50 (5) The record and history of the child, including experience with the juvenile justice
51 system, other courts, supervision, commitments to juvenile institutions and other placements;

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

- 54 (7) The age of the child;
55 (8) The program and facilities available to the juvenile court in considering disposition;
56 (9) Whether or not the child can benefit from the treatment or rehabilitative programs
57 available to the juvenile court; and
58 (10) Racial disparity in certification.

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

- 61 (1) Findings showing that the court had jurisdiction of the cause and of the parties;
62 (2) Findings showing that the child was represented by counsel;
63 (3) Findings showing that the hearing was held in the presence of the child and his
64 counsel; and
65 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

66 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting
67 attorney.

68 9. When a petition has been dismissed thereby permitting a child to be prosecuted under
69 the general law, the jurisdiction of the juvenile court over that child is forever terminated, except
70 as provided in subsection 10 of this section, for an act that would be a violation of a state law or
71 municipal ordinance.

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

77 11. If the court does not dismiss the petition to permit the child to be prosecuted under
78 the general law, it shall set a date for the hearing upon the petition as provided in section
79 211.171.

211.081. 1. Whenever any person informs the court in person and in writing that a child
2 appears to be within the purview of applicable provisions of section 211.031 [or that a person
3 seventeen years of age appears to be within the purview of the provisions of subdivision (1) of
4 subsection 1 of section 211.031], the court shall make or cause to be made a preliminary inquiry
5 to determine the facts and to determine whether or not the interests of the public or of the child
6 [or person seventeen years of age] require that further action be taken. On the basis of this
7 inquiry, the juvenile court may make such informal adjustment as is practicable without a
8 petition or may authorize the filing of a petition by the juvenile officer. Any other provision of
9 this chapter to the contrary notwithstanding, the juvenile court shall not make any order for
10 disposition of a child [or person seventeen years of age] which would place or commit the child

11 [or person seventeen years of age] to any location outside the state of Missouri without first
12 receiving the approval of the division of family services.

13 2. Placement in any institutional setting shall represent the least restrictive appropriate
14 placement for the child [or person seventeen years of age] and shall be recommended based upon
15 a psychological or psychiatric evaluation or both. Prior to entering any order for disposition of
16 a child [or person seventeen years of age] which would order residential treatment or other
17 services inside the state of Missouri, the juvenile court shall enter findings which include the
18 recommendation of the psychological or psychiatric evaluation or both; and certification from
19 the division director or designee as to whether a provider or funds or both are available,
20 including a projection of their future availability. If the division of family services indicates that
21 funding is not available, the division shall recommend and make available for placement by the
22 court an alternative placement for the child [or person seventeen years of age]. The division shall
23 have the burden of demonstrating that they have exercised due diligence in utilizing all available
24 services to carry out the recommendation of the evaluation team and serve the best interest of the
25 child [or person seventeen years of age]. The judge shall not order placement or an alternative
26 placement with a specific provider but may reasonably designate the scope and type of the
27 services which shall be provided by the department to the child [or person seventeen years of
28 age].

29 3. Obligations of the state incurred under the provisions of section 211.181 shall not
30 exceed, in any fiscal year, the amount appropriated for this purpose.

211.091. 1. The petition shall be entitled "In the interest of, a child under
2 [seventeen] **eighteen** years of age". If a petition is filed pursuant to the provisions of subdivision
3 (1) of subsection 1 of section 211.031, the petition shall be entitled "In the interest of, a
4 child under [seventeen] **eighteen** years of age" [or "In the interest of, a person
5 seventeen years of age"].

6 2. The petition shall set forth plainly:

7 (1) The facts which bring the child [or person seventeen years of age] within the
8 jurisdiction of the court;

9 (2) The full name, birth date, and residence of the child [or person seventeen years of
10 age];

11 (3) The names and residence of his **or her** parents, if living;

12 (4) The name and residence of his **or her** legal guardian if there be one, of the person
13 having custody of the child [or person seventeen years of age] or of the nearest known relative
14 if no parent or guardian can be found; and

15 (5) Any other pertinent data or information.

16 3. If any facts required in subsection 2 of this section are not known by the petitioner,
17 the petition shall so state.

18 4. Prior to the voluntary dismissal of a petition filed under this section, the juvenile
19 officer shall assess the impact of such dismissal on the best interests of the child, and shall take
20 all actions practicable to minimize any negative impact.

211.101. 1. After a petition has been filed, unless the parties appear voluntarily, the
2 juvenile court shall issue a summons in the name of the state of Missouri requiring the person
3 who has custody of the child [or person seventeen years of age] to appear personally and, unless
4 the court orders otherwise, to bring the child [or person seventeen years of age] before the court,
5 at the time and place stated.

6 2. If the person so summoned is other than a parent or guardian of the child [or person
7 seventeen years of age], then the parent or guardian or both shall also be notified of the pendency
8 of the case and of the time and place appointed.

9 3. If it appears that the child [or person seventeen years of age] is in such condition or
10 surroundings that his **or her** welfare requires that his **or her** custody be immediately assumed
11 by the court, the judge may order, by endorsement upon the summons, the officer serving it to
12 take the child [or person seventeen years of age] into custody at once.

13 4. Subpoena may be issued requiring the appearance of any other person whose presence,
14 in the opinion of the judge, is necessary.

211.161. 1. The court may cause any child [or person seventeen years of age] within its
2 jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court
3 in order that the condition of the child [or person seventeen years of age] may be given
4 consideration in the disposition of his case. The expenses of the examination when approved
5 by the court shall be paid by the county, except that the county shall not be liable for the costs
6 of examinations conducted by the department of mental health either directly or through contract.

7 2. The services of a state, county or municipally maintained hospital, institution, or
8 psychiatric or health clinic may be used for the purpose of this examination and treatment.

9 3. A county may establish medical, psychiatric and other facilities, upon request of the
10 juvenile court, to provide proper services for the court in the diagnosis and treatment of children
11 [or persons seventeen years of age] coming before it and these facilities shall be under the
12 administration and control of the juvenile court. The juvenile court may appoint and fix the
13 compensation of such professional and other personnel as it deems necessary to provide the court
14 proper diagnostic, clinical and treatment services for children [or persons seventeen years of age]
15 under its jurisdiction.

211.181. 1. When a child [or person seventeen years of age] is found by the court to
2 come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the

3 court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the
4 child [or person seventeen years of age], and the court may, by order duly entered, proceed as
5 follows:

6 (1) Place the child [or person seventeen years of age] under supervision in his own home
7 or in the custody of a relative or other suitable person after the court or a public agency or
8 institution designated by the court conducts an investigation of the home, relative or person and
9 finds such home, relative or person to be suitable and upon such conditions as the court may
10 require;

11 (2) Commit the child [or person seventeen years of age] to the custody of:

12 (a) A public agency or institution authorized by law to care for children or to place them
13 in family homes; except that, such child [or person seventeen years of age] may not be
14 committed to the department of social services, division of youth services;

15 (b) Any other institution or agency which is authorized or licensed by law to care for
16 children or to place them in family homes;

17 (c) An association, school or institution willing to receive the child [or person seventeen
18 years of age] in another state if the approval of the agency in that state which administers the
19 laws relating to importation of children into the state has been secured; or

20 (d) The juvenile officer;

21 (3) Place the child [or person seventeen years of age] in a family home;

22 (4) Cause the child [or person seventeen years of age] to be examined and treated by a
23 physician, psychiatrist or psychologist and when the health or condition of the child [or person
24 seventeen years of age] requires it, cause the child [or person seventeen years of age] to be placed
25 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
26 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
27 of a child [or person seventeen years of age] whose parents or guardian in good faith are
28 providing other remedial treatment recognized or permitted under the laws of this state;

29 (5) The court may order, pursuant to subsection 2 of section 211.081, that the child
30 receive the necessary services in the least restrictive appropriate environment including home
31 and community-based services, treatment and support, based on a coordinated, individualized
32 treatment plan. The individualized treatment plan shall be approved by the court and developed
33 by the applicable state agencies responsible for providing or paying for any and all appropriate
34 and necessary services, subject to appropriation, and shall include which agencies are going to
35 pay for and provide such services. Such plan must be submitted to the court within thirty days
36 and the child's family shall actively participate in designing the service plan for the child [or
37 person seventeen years of age];

38 (6) The department of social services, in conjunction with the department of mental
39 health, shall apply to the United States Department of Health and Human Services for such
40 federal waivers as required to provide services for such children, including the acquisition of
41 community-based services waivers.

42 2. When a child is found by the court to come within the provisions of subdivision (2)
43 of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact
44 upon which it exercises its jurisdiction over the child, the court may, by order duly entered,
45 proceed as follows:

46 (1) Place the child under supervision in his **or her** own home or in custody of a relative
47 or other suitable person after the court or a public agency or institution designated by the court
48 conducts an investigation of the home, relative or person and finds such home, relative or person
49 to be suitable and upon such conditions as the court may require;

50 (2) Commit the child to the custody of:

51 (a) A public agency or institution authorized by law to care for children or place them
52 in family homes; except that, a child may be committed to the department of social services,
53 division of youth services, only if he **or she** is presently under the court's supervision after an
54 adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

55 (b) Any other institution or agency which is authorized or licensed by law to care for
56 children or to place them in family homes;

57 (c) An association, school or institution willing to receive it in another state if the
58 approval of the agency in that state which administers the laws relating to importation of children
59 into the state has been secured; or

60 (d) The juvenile officer;

61 (3) Place the child in a family home;

62 (4) Cause the child to be examined and treated by a physician, psychiatrist or
63 psychologist and when the health or condition of the child requires it, cause the child to be placed
64 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
65 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
66 of a child whose parents or guardian in good faith are providing other remedial treatment
67 recognized or permitted under the laws of this state;

68 (5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.

69

70 Execution of any order entered by the court pursuant to this subsection, including a commitment
71 to any state agency, may be suspended and the child placed on probation subject to such
72 conditions as the court deems reasonable. After a hearing, probation may be revoked and the
73 suspended order executed.

74 3. When a child is found by the court to come within the provisions of subdivision (3)
75 of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon
76 which it exercises its jurisdiction over the child, and the court may, by order duly entered,
77 proceed as follows:

78 (1) Place the child under supervision in his or her own home or in custody of a relative
79 or other suitable person after the court or a public agency or institution designated by the court
80 conducts an investigation of the home, relative or person and finds such home, relative or person
81 to be suitable and upon such conditions as the court may require; provided that, no child who has
82 been adjudicated a delinquent by a juvenile court for committing or attempting to commit a
83 sex-related offense which if committed by an adult would be considered a felony offense
84 pursuant to chapter 566, RSMo, including but not limited to rape, forcible sodomy, child
85 molestation, and sexual abuse, and in which the victim was a child, shall be placed in any
86 residence within one thousand feet of the residence of the abused child of that offense until the
87 abused child reaches the age of eighteen, and provided further that the provisions of this
88 subdivision regarding placement within one thousand feet of the abused child shall not apply
89 when the abusing child and the abused child are siblings or children living in the same home;

90 (2) Commit the child to the custody of:

91 (a) A public agency or institution authorized by law to care for children or to place them
92 in family homes;

93 (b) Any other institution or agency which is authorized or licensed by law to care for
94 children or to place them in family homes;

95 (c) An association, school or institution willing to receive it in another state if the
96 approval of the agency in that state which administers the laws relating to importation of children
97 into the state has been secured; or

98 (d) The juvenile officer;

99 (3) Beginning January 1, 1996, the court may make further directions as to placement
100 with the division of youth services concerning the child's length of stay. The length of stay order
101 may set forth a minimum review date;

102 (4) Place the child in a family home;

103 (5) Cause the child to be examined and treated by a physician, psychiatrist or
104 psychologist and when the health or condition of the child requires it, cause the child to be placed
105 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
106 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
107 of a child whose parents or guardian in good faith are providing other remedial treatment
108 recognized or permitted under the laws of this state;

109 (6) Suspend or revoke a state or local license or authority of a child to operate a motor
110 vehicle;

111 (7) Order the child to make restitution or reparation for the damage or loss caused by his
112 **or her** offense. In determining the amount or extent of the damage, the court may order the
113 juvenile officer to prepare a report and may receive other evidence necessary for such
114 determination. The child and his **or her** attorney shall have access to any reports which may be
115 prepared, and shall have the right to present evidence at any hearing held to ascertain the amount
116 of damages. Any restitution or reparation ordered shall be reasonable in view of the child's
117 ability to make payment or to perform the reparation. The court may require the clerk of the
118 circuit court to act as receiving and disbursing agent for any payment ordered;

119 (8) Order the child to a term of community service under the supervision of the court or
120 of an organization selected by the court. Every person, organization, and agency, and each
121 employee thereof, charged with the supervision of a child under this subdivision, or who benefits
122 from any services performed as a result of an order issued under this subdivision, shall be
123 immune from any suit by the child ordered to perform services under this subdivision, or any
124 person deriving a cause of action from such child, if such cause of action arises from the
125 supervision of the child's performance of services under this subdivision and if such cause of
126 action does not arise from an intentional tort. A child ordered to perform services under this
127 subdivision shall not be deemed an employee within the meaning of the provisions of chapter
128 287, RSMo, nor shall the services of such child be deemed employment within the meaning of
129 the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a
130 commitment to any state agency, may be suspended and the child placed on probation subject
131 to such conditions as the court deems reasonable. After a hearing, probation may be revoked and
132 the suspended order executed;

133 (9) When a child has been adjudicated to have violated a municipal ordinance or to have
134 committed an act that would be a misdemeanor if committed by an adult, assess an amount of
135 up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been
136 adjudicated to have committed an act that would be a felony if committed by an adult, assess an
137 amount of up to fifty dollars to be paid by the child to the clerk of the court.

138 4. Beginning January 1, 1996, the court may set forth in the order of commitment the
139 minimum period during which the child shall remain in the custody of the division of youth
140 services. No court order shall require a child to remain in the custody of the division of youth
141 services for a period which exceeds the child's eighteenth birth date except upon petition filed
142 by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any
143 order of commitment of a child to the custody of the division of youth services, the division shall
144 determine the appropriate program or placement pursuant to subsection 3 of section 219.021,

145 RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody
146 of the division of youth services before the child completes the length of stay determined by the
147 court in the commitment order unless the committing court orders otherwise. The director of the
148 division of youth services may at any time petition the court for a review of a child's length of
149 stay commitment order, and the court may, upon a showing of good cause, order the early
150 discharge of the child from the custody of the division of youth services. The division may
151 discharge the child from the division of youth services without a further court order after the
152 child completes the length of stay determined by the court or may retain the child for any period
153 after the completion of the length of stay in accordance with the law.

154 5. When an assessment has been imposed under the provisions of subsection 2 or 3 of
155 this section, the assessment shall be paid to the clerk of the court in the circuit where the
156 assessment is imposed by court order, to be deposited in a fund established for the sole purpose
157 of payment of judgments entered against children in accordance with section 211.185.

Section 1. The implementation of this act is subject to appropriation.

2 [211.034. 1. Any parent, legal guardian, or other person having legal
3 custody of a minor child may, at any time after the minor child attains fifteen
4 years of age and before the minor child attains eighteen years of age, petition the
5 circuit court for the county where the minor child and parent, legal guardian, or
6 other person having legal custody of the minor child reside to extend the
7 jurisdiction of the juvenile court until the minor child reaches the age of eighteen
8 years.

9 2. The petition shall be accompanied by verified proof of service on the
10 minor child and certified copies of documents demonstrating that the petitioner
11 is the parent, legal guardian, or other legal custodian of the minor child. If the
12 petitioner is not the natural parent of the minor child, the petition shall be
13 accompanied by:

14 (1) An affidavit from at least one of the child's natural parents consenting
15 to the granting of the petition; or

16 (2) An affidavit from the petitioner stating that the natural parents:

17 (a) Are deceased;

18 (b) Have been declared legally incompetent;

19 (c) Have had their parental rights as to the minor child terminated by a
20 court of competent jurisdiction;

21 (d) Have voluntarily surrendered their parental rights as to the minor
22 child;

23 (e) Have abandoned the minor child;

24 (f) Are unknown; or

25 (g) Are otherwise unavailable, in which case, the affidavit shall state the
26 reasons why the natural parents are unavailable.

27 In all cases where any parent, legal guardian, or other person having legal custody
28 of a minor child petitions the court to extend the jurisdiction of the juvenile court
29 until the minor child's eighteenth birthday, the court shall appoint an attorney to
30 represent the minor child. An individual filing the petition shall pay the attorney
31 fees of the minor child.

32 3. Upon the filing of a petition under this section and a determination by
33 the court in favor of the petitioner, the circuit court shall issue an order declaring
34 that the minor child shall remain under the jurisdiction of the juvenile court for
35 all purposes under state law until the minor child reaches eighteen years of age;
36 except that, for purposes of criminal law and procedure, including arrest,
37 prosecution, trial, and punishment, if the minor is certified as an adult, the minor
38 shall remain a certified adult despite the issuance of a court order under this
39 section. Such minor child shall be subject to the compulsory school attendance
40 requirements of section 167.031, RSMo, until the minor child receives a high
41 school diploma or its equivalent, or reaches eighteen years of age. The court
42 order shall be filed with the circuit clerk for the county where the petitioner
43 resides.

44 4. Nothing in this section shall be construed as creating any civil or
45 criminal liability for any law enforcement officer, juvenile officer, school
46 personnel, or court personnel for any action taken or failure to take any action
47 involving a minor child who remains under the jurisdiction of the juvenile court
48 under this section if such action or failure to take action is based on a good faith
49 belief by such officer or personnel that the minor child is not under the
50 jurisdiction of the juvenile court.]

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