

SECOND REGULAR SESSION

HOUSE BILL NO. 1552

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), FISHER, SATER,
COX AND BIVINS (Co-sponsors).

Pre-filed January 8, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3670L.01I

AN ACT

To repeal sections 211.031 and 577.037, RSMo, and to enact in lieu thereof two new sections relating to prosecution of certain traffic-related offenses.

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

Section A. Sections 211.031 and 577.037, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 211.031 and 577.037, to read as follows:

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family
2 court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall
3 have exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident of or
5 found within the county and who is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the child
7 or person seventeen years of age, neglect or refuse to provide proper support, education which
8 is required by law, medical, surgical or other care necessary for his or her well-being; except that
9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or
10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise without proper care, custody
13 or support; or

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.

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

17 (d) The child or person seventeen years of age is a child in need of mental health services
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health
19 treatment or care for the child;

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

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

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

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

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

30 (e) The child is charged with an offense not classified as criminal, or with an offense
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
32 child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic
33 ordinance or regulation, the violation of which does not constitute a felony, or any child who is
34 alleged to have violated a state or municipal ordinance or regulation prohibiting possession or
35 use of any tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of
39 the circuit in which the child or person resides or may be found or in which the violation is
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child
41 fifteen [and one-half] years of age who is alleged to have violated a state or municipal traffic
42 ordinance or regulation, the violation of which does not constitute a felony, and except that the
43 juvenile court shall have concurrent jurisdiction with the municipal court over any child who is
44 alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall
45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship
49 of the department of social services as provided by law.

50 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person
51 seventeen years of age who resides in a county of this state shall be made as follows:

52 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
53 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
54 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving
55 court, to the county of the child's residence or the residence of the person seventeen years of age
56 for future action;

57 (2) Upon the motion of any party or on its own motion prior to final disposition on the
58 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
59 a child or person seventeen years of age to the court located in the county of the child's residence
60 or the residence of the person seventeen years of age, or the county in which the offense pursuant
61 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

62 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
63 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction
64 of a child or person seventeen years of age to the court located in the county of the child's
65 residence or the residence of the person seventeen years of age for further action with the prior
66 consent of the receiving court;

67 (4) Upon motion of any party or upon its own motion at any time following a judgment
68 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause
69 may place the child or person seventeen years of age under the supervision of another juvenile
70 court within or without the state pursuant to section 210.570, RSMo, with the consent of the
71 receiving court;

72 (5) Upon motion of any child or person seventeen years of age or his or her parent, the
73 court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court
74 Rules;

75 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or
76 person seventeen years of age, certified copies of all legal and social documents and records
77 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the
78 transfer.

79 3. In any proceeding involving any child or person seventeen years of age taken into
80 custody in a county other than the county of the child's residence or the residence of a person
81 seventeen years of age, the juvenile court of the county of the child's residence or the residence
82 of a person seventeen years of age shall be notified of such taking into custody within
83 seventy-two hours.

84 4. When an investigation by a juvenile officer pursuant to this section reveals that the
85 only basis for action involves an alleged violation of section 167.031, RSMo, involving a child

86 who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such
87 child to verify that the child is being home schooled and not in violation of section 167.031,
88 RSMo, before making a report of such a violation. Any report of a violation of section 167.031,
89 RSMo, made by a juvenile officer regarding a child who is being home schooled shall be made
90 to the prosecuting attorney of the county where the child legally resides.

577.037. 1. Upon the trial of any person for violation of any of the provisions of section
2 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of
3 any criminal action or violations of county or municipal ordinances or in any license suspension
4 or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts
5 alleged to have been committed by any person while driving a motor vehicle while in an
6 intoxicated condition, the amount of alcohol **or controlled substance** in the person's blood at
7 the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva
8 or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060,
9 RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise
10 admissible. If there was eight-hundredths of one percent or more by weight of alcohol in the
11 person's blood, this shall be prima facie evidence that the person was intoxicated at the time the
12 specimen was taken. **If there was any amount of a controlled substance present in the**
13 **person's blood, this shall be prima facie evidence that the person was in a drugged**
14 **condition at the time the specimen was taken.**

15 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
16 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

17 3. The foregoing provisions of this section shall not be construed as limiting the
18 introduction of any other competent evidence bearing upon the question whether the person was
19 intoxicated.

20 4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise
21 to the presumption or to have the effect provided for in subsection 1 of this section, shall have
22 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and
23 standards approved by the state department of health and senior services.

24 5. Any charge alleging a violation of section 577.010 or 577.012 or any county or
25 municipal ordinance prohibiting driving while intoxicated or driving under the influence of
26 alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood,
27 saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated
28 thereunder by the state department of health and senior services demonstrate that there was less
29 than eight-hundredths of one percent of alcohol in the defendant's blood unless one or more of
30 the following considerations cause the court to find a dismissal unwarranted:

31 (1) There is evidence that the chemical analysis is unreliable as evidence of the
32 defendant's intoxication at the time of the alleged violation due to the lapse of time between the
33 alleged violation and the obtaining of the specimen;

34 (2) There is evidence that the defendant was under the influence of a controlled
35 substance, or drug, or a combination of either or both with or without alcohol; or

36 (3) There is substantial evidence of intoxication from physical observations of witnesses
37 or admissions of the defendant.

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