

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 351, Page 2, Section 211.033, Line 17, by
2 inserting immediately after said section and line the following:

3
4 "211.059. 1. When a child is taken into custody by a juvenile officer or law enforcement
5 official, with or without a warrant for an offense in violation of the juvenile code or the general law
6 which would place the child under the jurisdiction of the juvenile court pursuant to subdivision (2)
7 or (3) of subsection 1 of section 211.031, the child shall be advised, orally and in writing, prior to
8 questioning:

9 (1) That ~~[he]~~ the child has the right to remain silent; ~~[and]~~

10 (2) That any statement ~~[he]~~ the child does make to anyone can be and may be used against
11 ~~[him]~~ the child in subsequent juvenile court proceedings; ~~[and]~~

12 (3) That ~~[he]~~ the child has a right to have a parent, guardian or custodian present during
13 questioning; ~~[and]~~

14 (4) That ~~[he]~~ the child has a right to consult with an attorney and that one will be appointed
15 and paid for him if he cannot afford one;

16 (5) That the child has the right to stop talking at any time; and

17 (6) That any statement the child does make to law enforcement can be and may be used
18 against the child if the child is transferred to a court of general jurisdiction to be prosecuted under
19 the general law.

20 2. ~~[If the child indicates in any manner and at any stage of questioning pursuant to this~~
21 ~~section that he does not wish to be questioned further, the officer shall cease questioning.]~~ The
22 juvenile officer shall halt or discontinue any questioning by law enforcement upon notice from the
23 child that the child wishes to stop being questioned.

24 3. The juvenile officer shall ensure a child is advised of the limited role of the juvenile
25 officer during questioning by law enforcement and specifically advise the child that the juvenile
26 officer is not legal counsel for the child or an advocate for the child during questioning by law
27 enforcement.

28 4. The juvenile officer shall not participate in the questioning by law enforcement by asking
29 any questions or soliciting any information from the child regarding the alleged offense or offenses.

30 5. When a child is taken into custody by a juvenile officer or law enforcement official
31 which places the child under the jurisdiction of the juvenile court under subdivision (1) of
32 subsection 1 of section 211.031, including any interactions with the child by the children's division,
33 the following shall apply:

34 (1) If the child indicates in any manner at any stage during questioning involving the
35 alleged abuse and neglect that the child does not wish to be questioned any further on the
36 allegations, or that the child wishes to have his or her parent, legal guardian, or custodian if such

Action Taken _____ Date _____

parent, guardian, or custodian is not the alleged perpetrator, or his or her attorney present during questioning as to the alleged abuse, the questioning of the child shall cease on the alleged abuse and neglect until such a time that the child does not object to talking about the alleged abuse and neglect unless the interviewer has reason to believe that the parent, legal guardian, or custodian is acting to protect the alleged perpetrator. Nothing in this subdivision shall be construed to prevent the asking of any questions necessary for the care, treatment, or placement of a child; and

(2) Notwithstanding any prohibition of hearsay evidence, all video or audio recordings of any meetings, interviews, or interrogations of a child shall be presumed admissible as evidence in any court or administrative proceeding involving the child if the following conditions are met:

(a) Such meetings, interviews, or interrogations of the child are conducted by the state prior to or after the child is taken into the custody of the state; and

(b) Such video or audio recordings were made prior to the adjudication hearing in the case. Nothing in this paragraph shall be construed to prohibit the videotaping or audiotaping of any such meetings, interviews, or interrogations of a child after the adjudication hearing; and

(3) Only upon a showing by clear and convincing evidence that such a video or audio recording lacks sufficient indicia of reliability shall such recording be inadmissible.

The provisions of this subsection shall not apply to statements admissible under section 491.075 or 492.304 in criminal proceedings."; and

Further amend said bill, Page 4, Section 211.071, Line 92, by inserting immediately after said section and line the following:

"211.081. 1. Whenever any person informs the ~~[court in person and]~~ juvenile officer in writing that a child appears to be within the purview of applicable provisions of section 211.031 or that a person seventeen years of age appears to be within the purview of the provisions of subdivision (1) of subsection 1 of section 211.031, the ~~[court]~~ juvenile officer shall make or cause to be made a preliminary inquiry to determine the facts and to determine whether or not the interests of the public or of the child or person seventeen years of age require that further action be taken. On the basis of this inquiry, the juvenile ~~[court]~~ officer may make such informal adjustment as is practicable without a petition or ~~[may authorize the filing of a petition by the juvenile officer]~~ file a petition. Any other provision of this chapter to the contrary notwithstanding, the juvenile court shall not make any order for disposition of a child or person seventeen years of age which would place or commit the child or person seventeen years of age to any location outside the state of Missouri without first receiving the approval of the children's division.

2. Placement in any institutional setting shall represent the least restrictive appropriate placement for the child or person seventeen years of age and shall be recommended based upon a psychological or psychiatric evaluation or both. Prior to entering any order for disposition of a child or person seventeen years of age which would order residential treatment or other services inside the state of Missouri, the juvenile court shall enter findings which include the recommendation of the psychological or psychiatric evaluation or both; and certification from the division director or designee as to whether a provider or funds or both are available, including a projection of their future availability. If the children's division indicates that funding is not available, the division shall recommend and make available for placement by the court an alternative placement for the child or person seventeen years of age. The division shall have the burden of demonstrating that they have exercised due diligence in utilizing all available services to carry out the recommendation of the evaluation team and serve the best interest of the child or person seventeen years of age. The judge shall not order placement or an alternative placement with

1 a specific provider but may reasonably designate the scope and type of the services which shall be
2 provided by the department to the child or person seventeen years of age.

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

5
6 Further amend said bill, Page 7, Section 211.151, Line 92, by inserting immediately after said
7 section and line the following:

8
9 "211.211. 1. A ~~[party]~~ child is entitled to be represented by counsel in all proceedings under
10 subdivision (2) or (3) of subsection 1 of section 211.031 and by a guardian ad litem in all
11 proceedings under subdivision (1) of subsection 1 of section 211.031.

12 2. The court shall appoint counsel for a child prior to the filing of a petition if a request is
13 made therefor to the court and the court finds that the child is the subject of a juvenile court
14 proceeding and that the child making the request is indigent.

15 3. When a petition has been filed under subdivision (2) or (3) of subsection 1 of section
16 211.031, the court shall appoint counsel for the child [when necessary to assure a full and fair
17 hearing] except if private counsel has entered his or her appearance on behalf of the child or if
18 counsel has been waived in accordance with law.

19 4. When a petition has been filed and the child's custodian appears before the court without
20 counsel, the court shall appoint counsel for the custodian if it finds:

21 (1) That the custodian is indigent; and

22 (2) That the custodian desires the appointment of counsel; and

23 (3) That a full and fair hearing requires appointment of counsel for the custodian.

24 5. Counsel shall be allowed a reasonable time in which to prepare to represent his client.

25 6. Counsel shall serve for all stages of the proceedings, including appeal, unless relieved by
26 the court for good cause shown. If no appeal is taken, services of counsel are terminated following
27 the entry of an order of disposition.

28 7. The child and his custodian may be represented by the same counsel except where a
29 conflict of interest exists. Where it appears to the court that a conflict exists, it shall order that the
30 child and his custodian be represented by separate counsel, and it shall appoint counsel if required
31 by subsection 3 or 4 of this section.

32 8. When a petition has been filed, a child may waive his right to counsel only with the
33 approval of the court.

34 9. Waiver of counsel by a child may be withdrawn at any stage of the proceeding, in which
35 event the court shall appoint counsel for the child if required by subsection 3 of this section.

36 211.351. 1. The ~~[juvenile]~~ court or the family court administrator in circuits where a family
37 court administrator has been appointed to act as the appointing authority under section 487.060 shall
38 appoint a juvenile officer and other necessary juvenile court personnel to serve under the direction
39 of the court in each county of the first and second class and the circuit judge in circuits comprised of
40 third and fourth class counties:

41 (1) May appoint a juvenile officer and other necessary personnel to serve the judicial
42 circuit; or

43 (2) Circuit judges of any two or more adjoining circuits may by agreement, confirmed by
44 judicial order, appoint a juvenile officer and other necessary personnel to serve their respective
45 judicial circuits and, in such a case, the juvenile officers and other persons appointed shall serve
46 under the joint direction of the judges so agreeing.

47 2. The presiding judge of the circuit shall ensure that any case in the family court or
48 juvenile court divisions in which a juvenile officer is a participant is not heard by a judge who is the

1 appointing authority for the juvenile officer or other necessary juvenile employees.

2 3. In the event a juvenile officer and other juvenile court personnel are appointed to serve as
3 provided in subdivisions (1) and (2) of subsection 1 of this section, the total cost to the counties for
4 the compensation of these persons shall be prorated among the several counties and upon a ratio to
5 be determined by a comparison of the respective populations of the counties.

6 [3-] 4. In each judicial circuit, a grievance review committee shall be appointed by the
7 circuit court en banc to serve as final administrative authority of a grievance regarding personnel
8 policy or action that negatively affects an employee of the family court and/or juvenile court who is
9 not governed by the Missouri circuit court personnel system. The grievance review committee may
10 be comprised of either the circuit court en banc, a committee of not less than three circuit or
11 associate circuit judges, or other body established by local court rule.

12 211.361. 1. Whenever the need arises for the appointment of a juvenile officer, the
13 [juvenile] court or the family court administrator in circuits where a family court administrator has
14 been appointed to act as the appointing authority under section 487.060 shall either:

15 (1) Provide, by rule of court, for open competitive written and oral examinations and create
16 an eligible list of persons who possess the qualifications prescribed by subdivision (2) and who have
17 successfully passed such examination; or

18 (2) Appoint any person over the age of twenty-one years who has completed satisfactorily
19 four years of college education with a major in sociology or related subjects or who, in lieu of such
20 academic training, has had four years or more experience in social work with juveniles in probation
21 or allied services.

22 2. This section does not terminate the existing appointment nor present term of office of any
23 juvenile officer or deputy juvenile officer in any county, but it applies to any appointment to be
24 made after the existing appointment or term of office of any incumbent terminates or expires for any
25 reason whatsoever.

26 211.401. 1. The juvenile officer shall ~~[under direction of the juvenile court]~~:

27 (1) Make such investigations and furnish the court with such information and assistance as
28 the judge may ~~[require]~~ order;

29 (2) Keep a written record of such investigations and ~~[submit reports thereon to the judge]~~
30 offer such reports into evidence in accordance with law;

31 (3) Take charge of children before and after the hearing as may be ~~[directed]~~ ordered by the
32 court;

33 (4) Perform such other duties and exercise such powers as the judge of the juvenile court
34 may ~~[direct]~~ order.

35 2. The juvenile officer is vested with all the power and authority of sheriffs to make arrests
36 and perform other duties incident to his office.

37 3. The juvenile officers or other persons acting as such in the several counties of the state
38 shall cooperate with each other in carrying out the purposes and provisions of this chapter."; and
39

40 Further amend said bill and page, Section 211.436, Line 9, by inserting immediately after said
41 section and line the following:
42

43 "211.447. 1. Any information that could justify the filing of a petition to terminate parental
44 rights may be referred to the juvenile officer by any person. The juvenile officer shall make a
45 preliminary inquiry and if it appears that the information could justify the filing of a petition, the
46 juvenile officer may take further action, including filing a petition. If it does not appear to the
47 juvenile officer that a petition should be filed, such officer shall so notify the informant in writing
48 within thirty days of the referral. Such notification shall include the reasons that the petition will

1 not be filed. [~~Thereupon, the informant may bring the matter directly to the attention of the judge~~
 2 ~~of the juvenile court by presenting the information in writing, and if it appears to the judge that the~~
 3 ~~information could justify the filing of a petition, the judge may order the juvenile officer to take~~
 4 ~~further action, including making a further preliminary inquiry or filing a petition.~~]

5 2. Except as provided for in subsection 4 of this section, a petition to terminate the parental
 6 rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a
 7 petition has been filed by another party, the juvenile officer or the division shall seek to be joined as
 8 a party to the petition, when:

9 (1) Information available to the juvenile officer or the division establishes that the child has
 10 been in foster care for at least fifteen of the most recent twenty-two months; or

11 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
 12 For purposes of this subdivision, an "infant" means any child one year of age or under at the time of
 13 filing of the petition. The court may find that an infant has been abandoned if:

14 (a) The parent has left the child under circumstances that the identity of the child was
 15 unknown and could not be ascertained, despite diligent searching, and the parent has not come
 16 forward to claim the child; or

17 (b) The parent has, without good cause, left the child without any provision for parental
 18 support and without making arrangements to visit or communicate with the child, although able to
 19 do so; or

20 (c) The parent has voluntarily relinquished a child under section 210.950; or

21 (3) A court of competent jurisdiction has determined that the parent has:

22 (a) Committed murder of another child of the parent; or

23 (b) Committed voluntary manslaughter of another child of the parent; or

24 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
 25 voluntary manslaughter; or

26 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
 27 another child of the parent.

28 3. A termination of parental rights petition shall be filed by the juvenile officer or the
 29 division, or if such a petition has been filed by another party, the juvenile officer or the division
 30 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
 31 required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to
 32 comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for
 33 termination of parental rights which is filed outside of sixty days.

34 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section,
 35 the juvenile officer or the division may, but is not required to, file a petition to terminate the
 36 parental rights of the child's parent or parents if:

37 (1) The child is being cared for by a relative; or

38 (2) There exists a compelling reason for determining that filing such a petition would not be
 39 in the best interest of the child, as documented in the permanency plan which shall be made
 40 available for court review; or

41 (3) The family of the child has not been provided such services as provided for in section
 42 211.183.

43 5. The juvenile officer or the division may file a petition to terminate the parental rights of
 44 the child's parent when it appears that one or more of the following grounds for termination exist:

45 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
 46 child over one year of age at the time of filing of the petition. The court shall find that the child has
 47 been abandoned if, for a period of six months or longer:

48 (a) The parent has left the child under such circumstances that the identity of the child was

1 unknown and could not be ascertained, despite diligent searching, and the parent has not come
2 forward to claim the child; or

3 (b) The parent has, without good cause, left the child without any provision for parental
4 support and without making arrangements to visit or communicate with the child, although able to
5 do so;

6 (2) The child has been abused or neglected. In determining whether to terminate parental
7 rights pursuant to this subdivision, the court shall consider and make findings on the following
8 conditions or acts of the parent:

9 (a) A mental condition which is shown by competent evidence either to be permanent or
10 such that there is no reasonable likelihood that the condition can be reversed and which renders the
11 parent unable to knowingly provide the child the necessary care, custody and control;

12 (b) Chemical dependency which prevents the parent from consistently providing the
13 necessary care, custody and control of the child and which cannot be treated so as to enable the
14 parent to consistently provide such care, custody and control;

15 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or
16 any child in the family by the parent, including an act of incest, or by another under circumstances
17 that indicate that the parent knew or should have known that such acts were being committed toward
18 the child or any child in the family; or

19 (d) Repeated or continuous failure by the parent, although physically or financially able, to
20 provide the child with adequate food, clothing, shelter, or education as defined by law, or other care
21 and control necessary for the child's physical, mental, or emotional health and development.

22
23 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or
24 disease;

25 (3) The child has been under the jurisdiction of the juvenile court for a period of one year,
26 and the court finds that the conditions which led to the assumption of jurisdiction still persist, or
27 conditions of a potentially harmful nature continue to exist, that there is little likelihood that those
28 conditions will be remedied at an early date so that the child can be returned to the parent in the near
29 future, or the continuation of the parent-child relationship greatly diminishes the child's prospects
30 for early integration into a stable and permanent home. In determining whether to terminate
31 parental rights under this subdivision, the court shall consider and make findings on the following:

32 (a) The terms of a social service plan entered into by the parent and the division and the
33 extent to which the parties have made progress in complying with those terms;

34 (b) The success or failure of the efforts of the juvenile officer, the division or other agency
35 to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper
36 home for the child;

37 (c) A mental condition which is shown by competent evidence either to be permanent or
38 such that there is no reasonable likelihood that the condition can be reversed and which renders the
39 parent unable to knowingly provide the child the necessary care, custody and control;

40 (d) Chemical dependency which prevents the parent from consistently providing the
41 necessary care, custody and control over the child and which cannot be treated so as to enable the
42 parent to consistently provide such care, custody and control; or

43 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566
44 when the child or any child in the family was a victim, or a violation of section 568.020 when the
45 child or any child in the family was a victim. As used in this subdivision, a "child" means any
46 person who was under eighteen years of age at the time of the crime and who resided with such
47 parent or was related within the third degree of consanguinity or affinity to such parent; or

48 (5) The child was conceived and born as a result of an act of forcible rape or rape in the first

1 degree. When the biological father has pled guilty to, or is convicted of, the forcible rape or rape in
2 the first degree of the birth mother, such a plea or conviction shall be conclusive evidence
3 supporting the termination of the biological father's parental rights; or

4 (6) (a) The parent is unfit to be a party to the parent and child relationship because of a
5 consistent pattern of committing a specific abuse including, but not limited to, specific conditions
6 directly relating to the parent and child relationship which are determined by the court to be of a
7 duration or nature that renders the parent unable for the reasonably foreseeable future to care
8 appropriately for the ongoing physical, mental, or emotional needs of the child.

9 (b) It is presumed that a parent is unfit to be a party to the parent and child relationship
10 upon a showing that:

11 a. Within a three-year period immediately prior to the termination adjudication, the parent's
12 parental rights to one or more other children were involuntarily terminated pursuant to subsection 2
13 or 4 of this section or subdivision (1), (2), (3), or (4) of this subsection or similar laws of other
14 states;

15 b. If the parent is the birth mother and within eight hours after the child's birth, the child's
16 birth mother tested positive and over .08 blood alcohol content pursuant to testing under section
17 577.020 for alcohol, or tested positive for cocaine, heroin, methamphetamine, a controlled substance
18 as defined in section 195.010, or a prescription drug as defined in section 196.973, excepting those
19 controlled substances or prescription drugs present in the mother's body as a result of medical
20 treatment administered to the mother, and the birth mother is the biological mother of at least one
21 other child who was adjudicated an abused or neglected minor by the mother or the mother has
22 previously failed to complete recommended treatment services by the children's division through a
23 family-centered services case;

24 c. If the parent is the birth mother and at the time of the child's birth or within eight hours
25 after a child's birth the child tested positive for alcohol, cocaine, heroin, methamphetamine, a
26 controlled substance as defined in section 195.010, or a prescription drug as defined in section
27 196.973, excepting those controlled substances or prescription drugs present in the mother's body as
28 a result of medical treatment administered to the mother, and the birth mother is the biological
29 mother of at least one other child who was adjudicated an abused or neglected minor by the mother
30 or the mother has previously failed to complete recommended treatment services by the children's
31 division through a family-centered services case; or

32 d. Within a three-year period immediately prior to the termination adjudication, the parent
33 has pled guilty to or has been convicted of a felony involving the possession, distribution, or
34 manufacture of cocaine, heroin, or methamphetamine, and the parent is the biological parent of at
35 least one other child who was adjudicated an abused or neglected minor by such parent or such
36 parent has previously failed to complete recommended treatment services by the children's division
37 through a family-centered services case.

38 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by
39 the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds
40 that the termination is in the best interest of the child and when it appears by clear, cogent and
41 convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this
42 section.

43 7. When considering whether to terminate the parent-child relationship pursuant to
44 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the
45 court shall evaluate and make findings on the following factors, when appropriate and applicable to
46 the case:

47 (1) The emotional ties to the birth parent;

48 (2) The extent to which the parent has maintained regular visitation or other contact with the

1 child;

2 (3) The extent of payment by the parent for the cost of care and maintenance of the child
3 when financially able to do so including the time that the child is in the custody of the division or
4 other child-placing agency;

5 (4) Whether additional services would be likely to bring about lasting parental adjustment
6 enabling a return of the child to the parent within an ascertainable period of time;

7 (5) The parent's disinterest in or lack of commitment to the child;

8 (6) The conviction of the parent of a felony offense that the court finds is of such a nature
9 that the child will be deprived of a stable home for a period of years; provided, however, that
10 incarceration in and of itself shall not be grounds for termination of parental rights;

11 (7) Deliberate acts of the parent or acts of another of which the parent knew or should have
12 known that subjects the child to a substantial risk of physical or mental harm.

13 8. The court may attach little or no weight to infrequent visitations, communications, or
14 contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child
15 relationship may serve as an inducement for the parent's rehabilitation.

16 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the
17 issues raised in a petition for adoption containing a prayer for termination of parental rights filed
18 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

19 10. The disability or disease of a parent shall not constitute a basis for a determination that a
20 child is a child in need of care, for the removal of custody of a child from the parent, or for the
21 termination of parental rights without a specific showing that there is a causal relation between the
22 disability or disease and harm to the child."; and

23
24 Further amend said bill by amending the title, enacting clause, and intersectional references
25 accordingly.