

SECOND REGULAR SESSION

HOUSE BILL NO. 2578

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EVANS.

5557H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 211.435, RSMo, and sections 211.031, 211.061, 211.073, and 211.181 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session, and to enact in lieu thereof five new sections relating to juvenile court, with a delayed effective date.

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

Section A. Section 211.435, RSMo, and sections 211.031, 211.061, 211.073, and 211.181 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session, are repealed and five new sections enacted in lieu thereof, to be known as sections 211.031, 211.061, 211.073, 211.181, and 211.435, to read as follows:

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in [~~sections 487.010 to 487.190~~] **chapter 487** shall have exclusive original jurisdiction in proceedings:

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

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

(b) The child is otherwise without proper care, custody or support;

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.

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

16 (d) The child is in need of mental health services and the parent, guardian or custodian
17 is unable to afford or access appropriate mental health treatment or care for the child;

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

20 (a) The child while subject to compulsory school attendance is repeatedly and without
21 justification absent from school;

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

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

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

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

34 (3) Involving any child who is alleged to have violated a state law or municipal
35 ordinance **on or after January 1, 2021**, or any person who is alleged to have violated a state law
36 or municipal ordinance **on or after January 1, 2021, but** prior to attaining the age of eighteen
37 years, in which cases jurisdiction may be taken by the court of the circuit in which the child or
38 person resides or may be found or in which the violation is alleged to have occurred; except that,
39 the juvenile court shall not have jurisdiction over any child fifteen years of age who is alleged
40 to have violated a state or municipal traffic ordinance or regulation, the violation of which does
41 not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with
42 the municipal court over any child who is alleged to have violated a municipal curfew ordinance,
43 and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any
44 child who is alleged to have violated a state or municipal ordinance or regulation prohibiting
45 possession or use of any tobacco product;

46 (4) For the adoption of a person;

47 (5) For the commitment of a child to the guardianship of the department of social
48 services as provided by law; and

49 (6) Involving an order of protection pursuant to chapter 455 when the respondent is less
50 than eighteen years of age.

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

53 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
54 the juvenile officer, the matter in the interest of a child may be transferred by the juvenile officer,
55 with the prior consent of the juvenile officer of the receiving court, to the county of the child's
56 residence or the residence of the person eighteen years of age 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 to the court located in the county of the child's residence, or the county in which the
60 offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for
61 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 to the court located in the county of the child's residence for further action with the
65 prior consent of the receiving court;

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

70 (5) Upon motion of any child or his or her parent, the court having jurisdiction shall
71 grant one change of judge pursuant to Missouri supreme court rules;

72 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child,
73 certified copies of all legal and social documents and records pertaining to the case on file with
74 the clerk of the transferring juvenile court shall accompany the transfer.

75 3. In any proceeding involving any child taken into custody in a county other than the
76 county of the child's residence, the juvenile court of the county of the child's residence shall be
77 notified of such taking into custody within seventy-two hours.

78 4. When an investigation by a juvenile officer pursuant to this section reveals that the
79 only basis for action involves an alleged violation of section 167.031 involving a child who
80 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child
81 to verify that the child is being home schooled and not in violation of section 167.031 before
82 making a report of such a violation. Any report of a violation of section 167.031 made by a
83 juvenile officer regarding a child who is being home schooled shall be made to the prosecuting
84 attorney of the county where the child legally resides.

85 5. The disability or disease of a parent shall not constitute a basis for a determination that
86 a child is a child in need of care or for the removal of custody of a child from the parent without
87 a specific showing that there is a causal relation between the disability or disease and harm to
88 the child.

 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 the child and the personal property found in
3 the child's possession, shall be taken immediately and directly before the juvenile court or
4 delivered to the juvenile officer or person acting for 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 eighteen years at the time he or she is alleged to have committed the
8 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) **Except if the child is also being detained under the general laws in criminal**
16 **court**, order the child released; or

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

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

 211.073. 1. ~~[The court shall, in a case when]~~ **If** the offender is under eighteen years of
2 age and has been transferred to a court of general jurisdiction pursuant to section 211.071, **if the**

3 **offender is alleged to have violated a state law prior to January 1, 2021, or if the offender**
4 **is alleged to have violated state law prior to January 1, 2021, and prior to attaining**
5 **eighteen years of age, and [whose] the offender's** prosecution results in a conviction or a plea
6 of guilty, **the court shall** consider dual jurisdiction of both the criminal and juvenile codes, as
7 set forth in this section. The court is authorized to impose a juvenile disposition under this
8 chapter and simultaneously impose an adult criminal sentence, the execution of which shall be
9 suspended pursuant to the provisions of this section. Successful completion of the juvenile
10 disposition ordered shall be a condition of the suspended adult criminal sentence. The court may
11 order an offender into the custody of the division of youth services pursuant to this section:

12 (1) Upon agreement of the division of youth services; and

13 (2) If the division of youth services determines that there is space available in a facility
14 designed to serve offenders sentenced under this section.

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16 If the division of youth services agrees to accept a youth and the court does not impose a juvenile
17 disposition, the court shall make findings on the record as to why the division of youth services
18 was not appropriate for the offender prior to imposing the adult criminal sentence.

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

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

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

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

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

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

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

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

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

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

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

44 6. If the suspension of the adult criminal sentence is revoked, all time served by the
45 offender under the juvenile disposition shall be credited toward the adult criminal sentence
46 imposed.

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

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

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

10 (a) A public agency or institution authorized by law to care for children or to place them
11 in family homes; except that, such child may not be committed to the department of social
12 services, division of youth services;

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

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

18 (d) The juvenile officer;

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

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

26 (5) The court may order, pursuant to subsection 2 of section 211.081, that the child
27 receive the necessary services in the least restrictive appropriate environment including home

28 and community-based services, treatment and support, based on a coordinated, individualized
29 treatment plan. The individualized treatment plan shall be approved by the court and developed
30 by the applicable state agencies responsible for providing or paying for any and all appropriate
31 and necessary services, subject to appropriation, and shall include which agencies are going to
32 pay for and provide such services. Such plan must be submitted to the court within thirty days
33 and the child's family shall actively participate in designing the service plan for the child;

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

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

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

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

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

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

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

56 (d) The juvenile officer;

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

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

64 (5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.
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66 Execution of any order entered by the court pursuant to this subsection, including a commitment
67 to any state agency, may be suspended and the child placed on probation subject to such
68 conditions as the court deems reasonable. After a hearing, probation may be revoked and the
69 suspended order executed.

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

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

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

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

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

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

94 (d) The juvenile officer;

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

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

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

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

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

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

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

134 4. Beginning January 1, 1996, the court may set forth in the order of commitment the
135 minimum period during which the child shall remain in the custody of the division of youth
136 services. No court order shall require a child to remain in the custody of the division of youth
137 services for a period which exceeds the child's ~~eighteenth~~ **nineteenth** birth date except upon
138 petition filed by the division of youth services pursuant to subsection 1 of section 219.021. In
139 any order of commitment of a child to the custody of the division of youth services, the division
140 shall determine the appropriate program or placement pursuant to subsection 3 of section
141 219.021. Beginning January 1, 1996, the department shall not discharge a child from the custody
142 of the division of youth services before the child completes the length of stay determined by the
143 court in the commitment order unless the committing court orders otherwise. The director of the
144 division of youth services may at any time petition the court for a review of a child's length of
145 stay commitment order, and the court may, upon a showing of good cause, order the early
146 discharge of the child from the custody of the division of youth services. The division may
147 discharge the child from the division of youth services without a further court order after the
148 child completes the length of stay determined by the court or may retain the child for any period
149 after the completion of the length of stay in accordance with the law.

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

211.435. 1. There is hereby created in the state treasury the "Juvenile Justice
2 Preservation Fund", which shall consist of moneys collected under subsection 2 of this section
3 and sections 488.315 and 558.003, any gifts, bequests, and donations, and any other moneys
4 appropriated by the general assembly. The state treasurer shall be custodian of the fund. In
5 accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The
6 fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be distributed
7 to the judicial circuits of the state based upon the increased workload created by sections 211.021
8 to 211.425 solely for the administration of the juvenile justice system. Notwithstanding the
9 provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the
10 biennium shall not revert to the credit of the general revenue fund. **Such funds shall be
11 reverted back to the juvenile office in the county of origination and shall not reduce or
12 offset any funds that are distributed to the juvenile office for the administration of any
13 duty assigned to the juvenile department.** The state treasurer shall invest moneys in the fund
14 in the same manner as other funds are invested. Any interest and moneys earned on such
15 investments shall be credited to the fund. The provisions of this subsection shall expire on
16 August 28, 2024.

17 2. For all traffic violations of any county ordinance or any violation of traffic laws of this
18 state, including an infraction, in which a person has pled guilty, there shall be assessed as costs
19 a surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding
20 involving a violation of an ordinance or state law when the proceeding or defendant has been
21 dismissed by the court or when costs are to be paid by the state, county, or municipality. Such
22 surcharge shall be collected and disbursed by the clerk of the court as provided by sections
23 488.010 to 488.020. The surcharge collected under this section shall be paid into the state
24 treasury to the credit of the juvenile justice preservation fund created in this section. The
25 provisions of this subsection shall expire if the provisions of subsection 1 of this section expire.

Section B. Section A of this act shall become effective January 1, 2021.

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