

FIRST REGULAR SESSION

HOUSE BILL NO. 1242

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EVANS.

1759H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 211.181, 211.435, 211.438, and 211.439, RSMo, and to enact in lieu thereof three new sections relating to juvenile court proceedings, with an emergency clause.

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

Section A. Sections 211.181, 211.435, 211.438, and 211.439, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 211.012, 211.181, and 211.435, to read as follows:

211.012. For purposes of this chapter, section 221.044, and original jurisdiction of the juvenile court, a person shall not be considered a child if at the time of the alleged state law or municipal ordinance violation the person would have been considered an adult.

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

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

(2) Commit the child to the custody of:

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

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 (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.

65

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

person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

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

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

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose 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]~~ A "Juvenile Justice Preservation Fund"~~], which~~ **is hereby established in each county's circuit court for the**

3 **purpose of implementing and maintaining the expansion of juvenile court jurisdiction to**
4 **eighteen years of age. The fund** shall consist of moneys collected under subsection 2 of this
5 section and sections 488.315 and 558.003, any gifts, bequests, and donations, and any other
6 moneys appropriated by the general assembly. ~~[The state treasurer shall be custodian of the fund.~~
7 ~~In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements.~~
8 ~~The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be~~
9 ~~distributed to the judicial circuits of the state based upon the increased workload created by~~
10 ~~sections 211.021 to 211.425 solely for the administration of the juvenile justice system.~~
11 ~~Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the~~
12 ~~fund at the end of the biennium shall not revert to the credit of the general revenue fund. The~~
13 ~~state treasurer shall invest moneys in the fund in the same manner as other funds are invested.~~
14 ~~Any interest and moneys earned on such investments shall be credited to the fund. The~~
15 ~~provisions of this subsection shall expire on August 28, 2024.]~~

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

28 3. Expenditures from the **county circuit court juvenile justice preservation fund**
29 **shall be made at the discretion of the juvenile department for the circuit court and shall**
30 **be used for the sole purpose of implementing and maintaining the expansion of juvenile**
31 **court jurisdiction.**

32 4. No moneys deposited in the juvenile justice preservation fund shall be expended
33 for capital improvements.

34 5. Moneys in the juvenile justice preservation fund shall not be used to replace or
35 reduce the current and ongoing responsibilities of the counties to provide funding for the
36 courts as required by law.

37 **6. New treatment services expanding services from seventeen years of age to**
38 **eighteen years of age shall be administered by the division of youth services and the**
39 **children's division within the department of social services.**

2 ~~[211.438. Expanding services from seventeen years of age to eighteen~~
3 ~~years of age is a new service and shall not be effective until an appropriation~~
4 ~~sufficient to fund the expanded service is provided therefor.]~~

2 ~~[211.439. The repeal and reenactment of sections 211.021, 211.031,~~
3 ~~211.032, 211.033, 211.041, 211.061, 211.071, 211.073, 211.081, 211.091,~~
4 ~~211.101, 211.161, 211.181, 211.321, 211.421, 211.425, 211.431, and 221.044~~
5 ~~shall become effective on January 1, 2021.]~~

2 Section B. Because immediate action is necessary to expand services from seventeen
3 years of age to eighteen years of age, section A of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and section A of this act shall be in full
force and effect upon its passage and approval.

✓