

SECOND REGULAR SESSION

HOUSE BILL NO. 2480

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOK.

4956H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 211.261 and 219.021, RSMo, and to enact in lieu thereof three new sections relating to juvenile proceedings.

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

Section A. Sections 211.261 and 219.021, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 211.261, 219.021, and 219.099, to read as follows:

211.261. 1. An appeal shall be allowed to the ~~[child]~~ **juvenile** from any final judgment, order or decree **of the court** made under the provisions of this chapter **and chapter 219** and may be taken on the part of the ~~[child]~~ **juvenile** by ~~[its]~~ **his or her** parent, guardian, legal custodian, spouse, relative or next friend. An appeal shall be allowed to a parent from any final judgment, order or decree **of the court** made under the provisions of this chapter ~~[which]~~ **and chapter 219 that** adversely affects him **or her**. An appeal shall be allowed to the juvenile officer from any final judgment, order or decree **of the court** made under this chapter **and chapter 219**, except that no such appeal shall be allowed concerning a final determination pursuant to subdivision (3) of subsection 1 of section 211.031. **An appeal shall be allowed to the department of social services, children's division, and division of youth services from any order, decree, or final judgment of the court made under this chapter and chapter 219 in any case in which the children's division or division of youth services of the department of social services provides, or is ordered to provide, benefits or services to the juvenile or if the department of social services, children's division, or division of youth services has legal custody of the juvenile.** Notice of appeal shall be filed within thirty days after the final judgment, order or decree has been entered but neither the

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.

17 notice of appeal nor any motion filed subsequent to the final judgment acts as a supersedeas
18 unless the court so orders.

19 2. Notwithstanding the provisions of subsection 1 of this section, an appeal shall be
20 allowed to ~~the~~:

21 (1) **The juvenile officer from any order suppressing evidence, a confession or an**
22 **admission, in proceedings under subdivision (3) of subsection 1 of section 211.031; ~~or~~**

23 (2) **A parent, guardian ad litem, or juvenile officer or the department of social**
24 **services, children's division, or division of youth services from any order changing or**
25 **modifying the placement of a ~~child~~ juvenile;**

26 (3) **The juvenile officer, juvenile, juvenile's guardian ad litem, or the children's**
27 **division from any order or judgment denying a petition for termination of parental**
28 **rights under section 211.447; or**

29 (4) **The division of youth services from any order, decree, or final judgment**
30 **committing a juvenile to the custody of the division of youth services, or denying any**
31 **petition or application filed by the division of youth services for relief from such**
32 **commitment.**

33 3. The appeal provided for in subsection 2 of this section shall be an interlocutory
34 appeal, filed in the appropriate district of the Missouri court of appeals. Notice of such
35 interlocutory appeal shall be filed within ~~three~~ **thirty** days of the entry of the order of trial
36 court; the time limits applicable to such appeal shall be the same as in interlocutory appeals
37 allowed to the state in criminal cases.

38 4. **The right to appeal under this section and section 219.099 shall be in addition**
39 **to the right of any party to any judicial proceeding under this chapter and chapter 219**
40 **to appeal an adverse decision of the juvenile or family court to the appropriate division**
41 **of the Missouri court of appeals under section 512.020.**

42 5. **For purposes of this section, the term "juvenile" shall refer to any person**
43 **under twenty-one years of age who is under the jurisdiction or authority of the juvenile**
44 **court under this chapter and chapter 219.**

219.021. 1. Except as provided in subsections 2 and 3 of this section, any ~~child~~
2 **person under nineteen years of age** may be committed to the custody of the division when
3 the juvenile court determines a suitable community-based treatment service does not exist, or
4 has proven ineffective; and when the ~~child~~ **person under nineteen years of age** is
5 adjudicated pursuant to the provisions of subdivision (3) of subsection 1 of section 211.031 or
6 when the ~~child~~ **person under nineteen years of age** is adjudicated pursuant to subdivision
7 (2) of subsection 1 of section 211.031 and is currently under court supervision for
8 adjudication under subdivision (2) or (3) of subsection 1 of section 211.031. The division
9 shall not keep any youth beyond his ~~eighteenth birth date~~ **or her nineteenth birthday,**

10 except upon petition and a showing of just cause in which case the division may maintain
11 custody until the youth's twenty-first birth date. Notwithstanding any other provision of law
12 to the contrary, the committing court shall review the treatment plan to be provided by the
13 division. The division shall notify the court of original jurisdiction from which the ~~[child]~~
14 **youth** was committed at least three weeks prior to the ~~[child's]~~ **youth's** release to aftercare
15 supervision. The notification shall include a summary of the treatment plan and progress of
16 the ~~[child]~~ **youth** that has resulted in the planned release. The court may formally object to
17 the director of the division in writing, stating its reasons in opposition to the release. The
18 director shall review the court's objection in consideration of its final approval for release.
19 The court's written objection shall be made within a one-week period after it receives
20 notification of the division's planned release; otherwise the division may assume court
21 agreement with the release. The division director's written response to the court shall occur
22 within five working days of service of the court's objection and preferably prior to the release
23 of the ~~[child]~~ **youth**. The division shall not place a ~~[child]~~ **youth** directly into a precare
24 setting immediately upon commitment from the court until it advises the court of such
25 placement.

26 2. No ~~[child]~~ **person under nineteen years of age** who has been diagnosed as having
27 a mental disease or a communicable or contagious disease shall be committed to the division;
28 except the division may, by regulation, when services for the proper care and treatment of
29 persons having such diseases are available at any of the facilities under its control, authorize
30 the commitment of ~~[children]~~ **persons** having such diseases to it for treatment in such
31 institution. Notice of any such regulation shall be promptly mailed to the judges and juvenile
32 officers of all courts having jurisdiction of cases involving ~~[children]~~ **juveniles**.

33 3. When a ~~[child]~~ **youth** has been committed to the division, the division shall
34 forthwith examine the individual and investigate all pertinent circumstances of his **or her**
35 background for the purpose of facilitating the placement and treatment of the ~~[child]~~ **youth** in
36 the most appropriate program or residential facility to assure the public safety and the
37 rehabilitation of the ~~[child]~~ **youth**; except that, no ~~[child]~~ **youth** committed under the
38 provisions of subdivision (2) of subsection 1 of section 211.031 may be placed in the
39 residential facilities designated by the division as a maximum security facility, unless the
40 juvenile is subsequently adjudicated under subdivision (3) of subsection 1 of section 211.031.

41 4. The division may transfer any ~~[child]~~ **youth** under its jurisdiction to any other
42 institution for children if, after careful study of the ~~[child's]~~ **youth's** needs, it is the judgment
43 of the division that the transfer should be effected. If the division determines that the ~~[child]~~
44 **youth** requires treatment by another state agency, it may transfer the physical custody of the
45 ~~[child]~~ **youth** to that agency, and that agency shall accept the ~~[child]~~ **youth** if the services are
46 available by that agency.

47 5. The division shall make periodic reexaminations of all ~~[children]~~ **youth** committed
48 to its custody for the purpose of determining whether existing dispositions should be modified
49 or continued. Reexamination shall include a study of all current circumstances of such
50 ~~[child's]~~ **youth's** personal and family situation and an evaluation of the progress made by such
51 ~~[child]~~ **youth** since the previous study. Reexamination shall be conducted as frequently as the
52 division deems necessary, but in any event, with respect to each such ~~[child]~~ **youth**, at
53 intervals not to exceed six months. Reports of the results of such examinations shall be sent
54 to the ~~[child's]~~ **youth's** committing court and to his **or her** parents or guardian.

55 6. Failure of the division to examine a ~~[child]~~ **youth** committed to it or to reexamine
56 him **or her** within six months of a previous examination shall not of itself entitle the ~~[child]~~
57 **youth** to be discharged from the custody of the division but shall entitle the ~~[child]~~ **youth**, his
58 **or her** parent, guardian, or agency to which the ~~[child]~~ **youth** may be placed by the division
59 to petition for review as provided in section 219.051.

60 7. The division is hereby authorized to establish, build, repair, maintain, and operate,
61 from funds appropriated or approved by the legislature for these purposes, facilities and
62 programs necessary to implement the provisions of this chapter. Such facilities or programs
63 may include, but not be limited to, the establishment and operation of training schools,
64 maximum security facilities, moderate care facilities, group homes, day treatment programs,
65 family foster homes, aftercare, counseling services, educational services, and such other
66 services as may be required to meet the needs of ~~[children]~~ **youth** committed to it. The
67 division may terminate any facility or program no longer needed to meet the needs of
68 ~~[children]~~ **youth**.

69 8. The division may institute day release programs for ~~[children]~~ **youth** committed to
70 it. The division may arrange with local schools, public or private agencies, or persons
71 approved by the division for the release of ~~[children]~~ **youth** committed to the division on a
72 daily basis to the custody of such schools, agencies, or persons for participation in programs.

73 9. The division shall make all reasonable efforts to ensure that any outstanding
74 judgment entered in accordance with section 211.185 or any outstanding assessments ordered
75 in accordance with section 211.181 be paid while a ~~[child]~~ **youth** is in the care, custody or
76 control of the division.

**219.099. 1. The juvenile, juvenile officer, or division of youth services of the
2 department of social services shall have the right to appeal an adverse order, decree,
3 decision, or final judgment of the juvenile or family court in the appropriate district of
4 the Missouri court of appeals as provided in section 211.261.**

5 **2. For purposes of this section, the term "juvenile" shall refer to any person**
6 **under twenty-one years of age who is under the jurisdiction or authority of the juvenile**
7 **court under this chapter and chapter 211.**

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