

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for  
2 Senate Bill No. 71, Page 19, Section 210.487, Line 60, by inserting after all of said section and line  
3 the following:  
4

5 "211.033. 1. No person under the age of eighteen years, except those transferred to the court  
6 of general jurisdiction under the provisions of section 211.071, shall be detained in a jail or other  
7 adult detention facility as that term is defined in section 211.151. ~~[A traffic court judge may request~~  
8 ~~the juvenile court to order the commitment of a person under the age of eighteen to a juvenile~~  
9 ~~detention facility.]~~

10 2. Nothing in this section shall be construed as creating any civil or criminal liability for any  
11 law enforcement officer, juvenile officer, school personnel, or court personnel for any action taken  
12 or failure to take any action involving a minor child who remains under the jurisdiction of the  
13 juvenile court under this section if such action or failure to take action is based on a good faith belief  
14 by such officer or personnel that the minor child is not under the jurisdiction of the juvenile court.

15 211.071. 1. If a petition or motion to modify alleges that a child between the ages of  
16 fourteen and eighteen has committed an offense ~~[which]~~ that would be considered a felony if  
17 committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer,  
18 the child, or the child's custodian, order a hearing and may, in its discretion, dismiss the petition or  
19 motion to modify and such child may be transferred to the court of general jurisdiction and  
20 prosecuted under the general law; except that, if a petition alleges that a child between the ages of  
21 twelve and eighteen has committed an offense ~~[which]~~ that would be considered first degree murder  
22 under section 565.020, second degree murder under section 565.021, first degree assault under  
23 section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in  
24 the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to  
25 August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under  
26 section 569.020 as it existed prior to January 1, 2017, ~~[or]~~ robbery in the first degree under section  
27 570.023, distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or the  
28 manufacturing of a controlled substance under section 579.055, if committed by an adult, or a  
29 dangerous felony as defined in section 556.061, or any felony involving the use, assistance, or aid of  
30 a deadly weapon, or has committed two or more prior unrelated offenses ~~[which]~~ that would be

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1 felonies if committed by an adult, the court shall order a hearing, and may, in its discretion, dismiss  
2 the petition or motion to modify and transfer the child to a court of general jurisdiction for  
3 prosecution under the general law.

4 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed  
5 by any person between eighteen and twenty-one years of age over whom the juvenile court has  
6 retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in  
7 the court of general jurisdiction as provided in section 211.041.

8 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any  
9 action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during  
10 the period of time in which a child misrepresents his or her age may be used against the child and  
11 will be subject only to rules of evidence applicable in adult proceedings.

12 4. Written notification of a transfer hearing shall be given to the juvenile and his or her  
13 custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing  
14 may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is  
15 to determine whether the child is a proper subject to be dealt with under the provisions of this  
16 chapter, and that if the court finds that the child is not a proper subject to be dealt with under the  
17 provisions of this chapter, the petition or motion to modify will be dismissed to allow for  
18 prosecution of the child under the general law.

19 5. The juvenile officer may consult with the office of prosecuting attorney concerning any  
20 offense for which the child could be certified as an adult under this section. The prosecuting or  
21 circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer,  
22 statements of witnesses and all other records or reports relating to the offense alleged to have been  
23 committed by the child. The prosecuting or circuit attorney shall have access to the disposition  
24 records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1  
25 of section 211.031. The prosecuting attorney shall not divulge any information regarding the child  
26 and the offense until the juvenile court at a judicial hearing has determined that the child is not a  
27 proper subject to be dealt with under the provisions of this chapter.

28 6. A written report shall be prepared in accordance with this chapter developing fully all  
29 available information relevant to the criteria which shall be considered by the court in determining  
30 whether the child is a proper subject to be dealt with under the provisions of this chapter and  
31 whether there are reasonable prospects of rehabilitation within the juvenile justice system. These  
32 criteria shall include but not be limited to:

33 (1) The seriousness of the offense alleged and whether the protection of the community  
34 requires transfer to the court of general jurisdiction;

35 (2) Whether the offense alleged involved viciousness, force and violence;

36 (3) Whether the offense alleged was against persons or property with greater weight being  
37 given to the offense against persons, especially if personal injury resulted;

38 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates  
39 that the child may be beyond rehabilitation under the juvenile code;

1 (5) The record and history of the child, including experience with the juvenile justice  
2 system, other courts, supervision, commitments to juvenile institutions and other placements;

3 (6) The sophistication and maturity of the child as determined by consideration of his or her  
4 home and environmental situation, emotional condition and pattern of living;

5 (7) The age of the child;

6 (8) The program and facilities available to the juvenile court in considering disposition;

7 (9) Whether or not the child can benefit from the treatment or rehabilitative programs  
8 available to the juvenile court; and

9 (10) Racial disparity in certification.

10 7. If the court dismisses the petition to permit the child to be prosecuted under the general  
11 law, the court shall enter a dismissal order containing:

12 (1) Findings showing that the court had jurisdiction of the cause and of the parties;

13 (2) Findings showing that the child was represented by counsel;

14 (3) Findings showing that the hearing was held in the presence of the child and his or her  
15 counsel; and

16 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

17 8. A copy of the petition or motion to modify and order of the dismissal shall be sent to the  
18 prosecuting attorney.

19 9. When a petition or motion to modify has been dismissed thereby permitting a child to be  
20 prosecuted under the general law and the prosecution of the child results in a conviction, the  
21 jurisdiction of the juvenile court over that child is forever terminated, except as provided in  
22 subsection 10 of this section, for an act that would be a violation of a state law or municipal  
23 ordinance.

24 10. If a petition or motion to modify has been dismissed thereby permitting a child to be  
25 prosecuted under the general law and the child is found not guilty by a court of general jurisdiction,  
26 the juvenile court shall have jurisdiction over any later offense committed by that child which would  
27 be considered a misdemeanor or felony if committed by an adult, subject to the certification  
28 provisions of this section.

29 11. If the court does not dismiss the petition or motion to modify to permit the child to be  
30 prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in  
31 section 211.171.

32 211.072. 1. A juvenile under eighteen years of age who has been certified to stand trial as  
33 an adult for offenses pursuant to section 211.071, if currently placed in a secure juvenile detention  
34 facility, shall remain in a secure juvenile detention facility pending finalization of the judgment and  
35 completion of appeal, if any, of the judgment dismissing the juvenile petition to allow for  
36 prosecution under the general law unless otherwise ordered by the juvenile court. Upon the  
37 judgment dismissing the petition to allow prosecution under the general laws becoming final and  
38 adult charges being filed, if the juvenile is currently in a secure juvenile detention facility, the  
39 juvenile shall remain in such facility unless the juvenile posts bond or the juvenile is transferred to

1 an adult jail. If the juvenile officer does not believe juvenile detention would be the appropriate  
2 placement or would continue to serve as the appropriate placement, the juvenile officer may file a  
3 motion in the adult criminal case requesting that the juvenile be transferred from a secure juvenile  
4 detention facility to an adult jail. The court shall hear evidence relating to the appropriateness of the  
5 juvenile remaining in a secure juvenile detention facility or being transferred to an adult jail. At  
6 such hearing, the following shall have the right to be present and have the opportunity to present  
7 evidence and recommendations at such hearing: the juvenile; the juvenile's parents; the juvenile's  
8 counsel; the prosecuting attorney; the juvenile officer or his or her designee for the circuit in which  
9 the juvenile was certified; the juvenile officer or his or her designee for the circuit in which the  
10 pretrial-certified juvenile is proposed to be held, if different from the circuit in which the juvenile  
11 was certified; counsel for the juvenile officer; and representatives of the county proposed to have  
12 custody of the pretrial-certified juvenile.

13 2. Following the hearing, the court shall order that the juvenile continue to be held in a  
14 secure juvenile detention facility subject to all Missouri juvenile detention standards, or the court  
15 shall order that the pretrial-certified juvenile be held in an adult jail but only after the court has  
16 made findings that it would be in the best interest of justice to move the pretrial-certified juvenile to  
17 an adult jail. The court shall weigh the following factors when deciding whether to detain a  
18 certified juvenile in an adult facility:

- 19 (1) The certified juvenile's age;
- 20 (2) The certified juvenile's physical and mental maturity;
- 21 (3) The certified juvenile's present mental state, including whether he or she presents an  
22 imminent risk of self-harm;
- 23 (4) The nature and circumstances of the charges;
- 24 (5) The certified juvenile's history of delinquency;
- 25 (6) The relative ability of the available adult and juvenile facilities to both meet the needs of  
26 the certified juvenile and to protect the public and other youth in their custody;
- 27 (7) The opinion of the juvenile officer in the circuit of the proposed placement as to the  
28 ability of that juvenile detention facility to provide for appropriate care, custody, and control of the  
29 pretrial-certified juvenile; and
- 30 (8) Any other relevant factor.

31 3. In the event the court finds that it is in the best interest of justice to require the certified  
32 juvenile to be held in an adult jail, the court shall hold a hearing once every thirty days to determine  
33 whether the placement of the certified juvenile in an adult jail is still in the best interests of justice.  
34 If a pretrial-certified juvenile under eighteen years of age is ordered released on the juvenile's adult  
35 criminal case from an adult jail following a transfer order under subsection 2 of this section and the  
36 juvenile is detained on violation of the conditions of release or bond, the juvenile shall return to the  
37 custody of the adult jail pending further court order.

38 4. A certified juvenile cannot be held in an adult jail for more than one hundred eighty days  
39 unless the court finds, for good cause, that an extension is necessary or the juvenile, through

counsel, waives the one hundred eighty day maximum period. If no extension is granted under this subsection, the certified juvenile shall be transferred from the adult jail to a secure juvenile detention facility. If an extension is granted under this subsection, the court shall hold a hearing once every thirty days to determine whether the placement of the certified juvenile in an adult jail is still in the best interests of justice.

5. Effective December 31, 2021, all previously pretrial-certified juveniles under eighteen years of age who had been certified prior to August 28, 2021, shall be transferred from adult jail to a secure juvenile detention facility, unless a hearing is held and the court finds, based upon the factors in subsection 2 of this section, that it would be in the best interest of justice to keep the juvenile in the adult jail.

6. All pretrial-certified juveniles under eighteen years of age who are held in adult jails pursuant to the best interest of justice exception shall continue to be subject to the protections of the Prison Rape Elimination Act (PREA) and shall be physically separated from adult inmates.

7. If the certified juvenile remains in juvenile detention, the juvenile officer may file a motion to reconsider placement. The court shall consider the factors set out in subsection 2 of this section and the individuals set forth in subsection 1 of this section shall have a right to be present and present evidence. The court may amend its earlier order in light of the evidence and arguments presented at the hearing if the court finds that it would not be in the best interest of justice for the juvenile to remain in a secure juvenile detention facility.

8. Issues related to the setting of, and posting of, bond along with any bond forfeiture proceedings shall be held in the pretrial-certified juvenile's adult criminal case.

9. Upon attaining eighteen years of age or upon a plea of guilty or conviction on the adult charges, the juvenile shall be transferred from juvenile detention to the appropriate adult facility.

10. Any responsibility for transportation of and contracted service for the certified juvenile who remains in a secure juvenile detention facility shall be handled by county jail staff in the same manner as in all other adult criminal cases where the defendant is in custody.

11. The county jail staff shall designate a liaison assigned to each pretrial-certified juvenile while housed in a juvenile detention facility, who shall assist in communication with the juvenile detention facility on the needs of the juvenile including, but not limited to, visitation, legal case status, medical and mental health needs, and phone contact.

12. The per diem provisions as set forth in section 211.156 shall apply to certified juveniles who are being held in a secure juvenile detention facility.

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

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

15 2. No child who has been diagnosed as having a mental disease or a communicable or  
16 contagious disease shall be committed to the division; except the division may, by regulation, when  
17 services for the proper care and treatment of persons having such diseases are available at any of the  
18 facilities under its control, authorize the commitment of children having such diseases to it for  
19 treatment in such institution. Notice of any such regulation shall be promptly mailed to the judges  
20 and juvenile officers of all courts having jurisdiction of cases involving children.

21 3. When a child has been committed to the division, the division shall forthwith examine the  
22 individual and investigate all pertinent circumstances of his background for the purpose of  
23 facilitating the placement and treatment of the child in the most appropriate program or residential  
24 facility to assure the public safety and the rehabilitation of the child; except that, no child committed  
25 under the provisions of subdivision (2) of subsection 1 of section 211.031 may be placed in the  
26 residential facilities designated by the division as a maximum security facility, unless the juvenile is  
27 subsequently adjudicated under subdivision (3) of subsection 1 of section 211.031.

28 4. The division may transfer any child under its jurisdiction to any other institution for  
29 children if, after careful study of the child's needs, it is the judgment of the division that the transfer  
30 should be effected. If the division determines that the child requires treatment by another state  
31 agency, it may transfer the physical custody of the child to that agency, and that agency shall accept  
32 the child if the services are available by that agency.

33 5. The division shall make periodic reexaminations of all children committed to its custody  
34 for the purpose of determining whether existing dispositions should be modified or continued.  
35 Reexamination shall include a study of all current circumstances of such child's personal and family  
36 situation and an evaluation of the progress made by such child since the previous study.  
37 Reexamination shall be conducted as frequently as the division deems necessary, but in any event,  
38 with respect to each such child, at intervals not to exceed six months. Reports of the results of such  
39 examinations shall be sent to the child's committing court and to his parents or guardian.

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

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

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

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

221.044. No person under the age of eighteen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071, shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. ~~[A traffic court judge may request the juvenile court to order the commitment of a person under the age of eighteen to a juvenile detention facility.]~~ If a person is eighteen years of age or older or attains the age of eighteen while in detention, upon a motion filed by the juvenile officer, the court may order that the person be detained in a jail or other adult detention facility as that term is defined in section 211.151 until the disposition of that person's juvenile court case."; and

Further amend said bill, Page 43, Section 569.175, Line 7, by inserting after all of said section and line the following:

"571.070. 1. A person commits the offense of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:

(1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony; ~~[or]~~

(2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent; or

1           (3) Such person is under eighteen years of age and has previously been adjudicated  
2 delinquent for what would be a felony if committed by an adult.

3           2. Unlawful possession of a firearm is a class C felony, unless a person has been convicted  
4 of a dangerous felony as defined in section 556.061, or the person has a prior conviction for  
5 unlawful possession of a firearm in which case it is a class B felony.

6           3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the  
7 possession of an antique firearm."; and

8  
9 Further amend said bill by amending the title, enacting clause, and intersectional references  
10 accordingly.