

SECOND REGULAR SESSION

# HOUSE BILL NO. 2558

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KEATHLEY.

4719H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal section 211.061, RSMo, and to enact in lieu thereof one new section relating to the detention of a juvenile.

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

Section A. Section 211.061, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.061, to read as follows:

211.061. 1. When a child is taken into custody with or without warrant for an offense, the child, together with any information concerning the child and the personal property found in the child's possession, shall be taken immediately and directly before the juvenile court or delivered to the juvenile officer or person acting for the child.

2. If any person is taken before a circuit or associate circuit judge not assigned to juvenile court or a municipal judge, and it is then, or at any time thereafter, ascertained that he or she was under the age of eighteen years at the time he or she is alleged to have committed the offense, or that he or she is subject to the jurisdiction of the juvenile court as provided by this chapter, it is the duty of the judge forthwith to transfer the case or refer the matter to the juvenile court, and direct the delivery of such person, together with information concerning him or her and the personal property found in his or her possession, to the juvenile officer or person acting as such.

3. When the juvenile court is informed that a child is in detention it shall examine the reasons therefor and shall immediately:

(1) Order the child released; or

(2) Order the child continued in detention until a detention hearing is held. An order to continue the child in detention shall only be entered upon the filing of a petition or motion

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.

18 to modify and a determination by the court that probable cause exists to believe that the child  
19 has committed acts specified in the petition or motion that bring the child within the  
20 jurisdiction of the court under subdivision (2) or (3) of subsection 1 of section 211.031.

21 4. **(1)** A juvenile shall not remain in detention for a period greater than twenty-four  
22 hours unless the court orders a detention hearing. If such hearing is not held within three  
23 days, excluding Saturdays, Sundays and legal holidays, the juvenile shall be released from  
24 detention unless the court for good cause orders the hearing continued. The detention hearing  
25 shall be held within the judicial circuit at a date, time and place convenient to the court.  
26 Notice of the date, time and place of a detention hearing, and of the right to counsel, shall be  
27 given to the juvenile and his or her custodian in person, by telephone, or by such other  
28 expeditious method as is available.

29 **(2) The detention hearing shall be held on the record and is subject to the same**  
30 **procedural and substantive rules as a preliminary hearing in a criminal prosecution.**

31 **(3) The court shall first inform the juvenile of the juvenile's right to counsel,**  
32 **including the right to appointed counsel under section 211.211.**

33 **(4) The court shall receive evidence as to whether there is probable cause to**  
34 **believe an offense has been committed and the juvenile has committed it. The court**  
35 **shall also receive evidence relevant to the necessity for detention of the juvenile. Any**  
36 **written reports or social records to be offered to the court at the detention hearing shall**  
37 **be made available to all parties at or prior to the hearing.**

38 **(5) The juvenile shall not be detained unless the court finds that:**

39 **(a) There is probable cause to believe an offense has been committed and the**  
40 **juvenile has committed it; and**

41 **(b) Detention is required:**

42 **a. To protect the juvenile;**

43 **b. To protect persons or property of others;**

44 **c. Because the juvenile may flee or be removed from the jurisdiction of the court;**

45 **d. Because the juvenile has no parent, guardian or custodian, or other suitable**  
46 **person able or willing to provide care and supervision for the juvenile and return the**  
47 **juvenile to court when required; or**

48 **e. Because the juvenile is a fugitive from another jurisdiction and an official of**  
49 **that jurisdiction has requested the juvenile be detained pending return to that**  
50 **jurisdiction.**