

SECOND REGULAR SESSION

HOUSE BILL NO. 2498

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRIST.

5281H.04I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 43.503, 211.071, and 211.151, RSMo, and to enact in lieu thereof three new sections relating to the certification of a juvenile for trial as an adult, with penalty provisions.

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

Section A. Sections 43.503, 211.071, and 211.151, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 43.503, 211.071, and 211.151, to read as follows:

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.651.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, photograph, and if available, any other unique biometric identification collected, charges, appropriate charge codes, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied or approved by the highway patrol or electronically in a format and manner approved by the highway patrol and in compliance with the standards set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System or its successor program. All such agencies shall also notify the central

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.

16 repository of all decisions not to refer such arrests for prosecution. An agency making such
17 arrests may enter into arrangements with other law enforcement agencies for the purpose of
18 furnishing without undue delay such fingerprints, photograph, and if available, any other
19 unique biometric identification collected, charges, appropriate charge codes, and descriptions
20 to the central repository upon its behalf.

21 3. In order for the Missouri office of prosecution services to maintain complete and
22 accurate statewide reports as required by section 56.750, on or before January 1, 2028, and
23 thereafter, all police officers of this state, the sheriff and each deputy sheriff of each county,
24 and the chief law enforcement official of a city not within a county and his or her officers
25 shall submit referrals for any traffic violation, ordinance violation, or misdemeanor or felony
26 offense referred to a prosecuting or circuit attorney in the form and manner approved by the
27 Missouri office of prosecution services as required by subdivision (7) of subsection 1 of
28 section 56.750. At a minimum, any referral to a prosecuting attorney or circuit attorney for a
29 felony offense shall include a probable cause statement and an investigative report. Any law
30 enforcement agency that violates this subsection shall be ineligible to receive state or federal
31 funds that would otherwise be paid to such agency for law enforcement, safety, or criminal
32 justice purposes.

33 4. In instances where an individual ~~[less than seventeen]~~ **under eighteen** years of age
34 and not currently certified as an adult is taken into custody for an offense ~~[which]~~ **that** would
35 be a ~~[felony]~~ **reportable offense under section 43.506** if committed by an adult, the arresting
36 officer shall take fingerprints for the central repository. These fingerprints shall be taken on
37 fingerprint cards supplied by or approved by the highway patrol or transmitted electronically
38 in a format and manner approved by the highway patrol and in compliance with the standards
39 set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System
40 or its successor program. ~~[The fingerprint cards shall be so constructed that the name of the~~
41 ~~juvenile should not be made available to the central repository.]~~ The individual's name and
42 the unique number associated with the fingerprints and other pertinent information shall be
43 provided to the court of jurisdiction by the agency taking the juvenile into custody. The
44 juvenile's fingerprints and other information shall be forwarded to the central repository and
45 the courts without undue delay. The fingerprint information from the card shall be captured
46 and stored in the automated fingerprint identification system operated by the central
47 repository. In the event the fingerprints are found to match other tenprints or unsolved latent
48 prints, the central repository shall notify the submitting agency who shall notify the court of
49 jurisdiction as per local agreement. ~~[Under section 211.031, in instances where a juvenile~~
50 ~~over fifteen and one-half years of age is alleged to have violated a state or municipal traffic~~
51 ~~ordinance or regulation, which does not constitute a felony, and the juvenile court does not~~
52 ~~have jurisdiction, the juvenile shall not be fingerprinted unless certified as an adult.]~~

53 5. Upon certification of the individual as an adult, the certifying court shall order a
54 law enforcement agency to immediately fingerprint and photograph the individual and
55 certification papers will be forwarded to the appropriate law enforcement agency with the
56 order for fingerprinting. The law enforcement agency shall submit such fingerprints,
57 photograph, and certification papers to the central repository within fifteen days and shall
58 furnish the offense cycle number associated with the fingerprints to the prosecuting attorney
59 or the circuit attorney of a city not within a county and to the clerk of the court ordering the
60 subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an
61 adult, the prosecuting attorney shall notify within fifteen days the central repository of the
62 change of status of the juvenile. Records of a child who has been fingerprinted and
63 photographed after being taken into custody shall be closed records as provided under section
64 610.100 if a petition has not been filed within thirty days of the date that the child was taken
65 into custody; and if a petition for the child has not been filed within one year of the date the
66 child was taken into custody, any records relating to the child concerning the alleged offense
67 may be expunged under the procedures in sections 610.122 to 610.126.

68 6. The prosecuting attorney of each county or the circuit attorney of a city not within
69 a county or the municipal prosecuting attorney shall notify the central repository on standard
70 forms supplied by the highway patrol or in a manner approved by the highway patrol of his or
71 her decision to not file a criminal charge on any charge referred to such prosecuting attorney
72 or circuit attorney for criminal charges. All records forwarded to the central repository and
73 the courts by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall
74 include the state offense cycle number of the offense, the charge code for the offense, and the
75 originating agency identifier number of the reporting prosecutor, using such numbers as
76 assigned by the highway patrol.

77 7. The clerk of the courts of each county or city not within a county or municipal
78 court clerk shall furnish the central repository, on standard forms supplied by the highway
79 patrol or in a manner approved by the highway patrol, with a record of all charges filed,
80 including all those added subsequent to the filing of a criminal court case, amended charges,
81 and all final dispositions of cases for which the central repository has a record of an arrest or a
82 record of fingerprints reported pursuant to sections 43.500 to 43.506. Such information shall
83 include, for each charge:

84 (1) All judgments of not guilty, acquittals on the ground of mental disease or defect
85 excluding responsibility, judgments or pleas of guilty including the sentence, if any, or
86 probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in
87 the trial court;

88 (2) Court orders filed with the clerk of the courts which reverse a reported conviction
89 or vacate or modify a sentence;

90 (3) Judgments terminating or revoking a sentence to probation, supervision or
91 conditional release and any resentencing after such revocation; and

92 (4) The offense cycle number of the offense, and the originating agency identifier
93 number of the sentencing court, using such numbers as assigned by the highway patrol.

94 8. The clerk of the courts of each county or city not within a county shall furnish, to
95 the department of corrections or department of mental health, court judgment and sentence
96 documents and the state offense cycle number and the charge code of the offense which
97 resulted in the commitment or assignment of an offender to the jurisdiction of the department
98 of corrections or the department of mental health if the person is committed pursuant to
99 chapter 552. This information shall be reported to the department of corrections or the
100 department of mental health at the time of commitment or assignment. If the offender was
101 already in the custody of the department of corrections or the department of mental health at
102 the time of such subsequent conviction, the clerk shall furnish notice of such subsequent
103 conviction to the appropriate department by certified mail, return receipt requested, or in a
104 manner and format mutually agreed to, within fifteen days of such disposition.

105 9. Information and fingerprints, photograph and if available, any other unique
106 biometric identification collected, forwarded to the central repository, normally obtained from
107 a person at the time of the arrest, may be obtained at any time the subject is in the criminal
108 justice system or committed to the department of mental health. A law enforcement agency
109 or the department of corrections may fingerprint, photograph, and capture any other unique
110 biometric identification of the person unless collecting other unique biometric identification
111 of the person is not financially feasible for the law enforcement agency, and obtain the
112 necessary information at any time the subject is in custody. If at the time of any court
113 appearance, the defendant has not been fingerprinted and photographed for an offense in
114 which a fingerprint and photograph is required by statute to be collected, maintained, or
115 disseminated by the central repository, the court shall order a law enforcement agency or
116 court marshal to fingerprint and photograph immediately the defendant. The order for
117 fingerprints shall contain the offense, charge code, date of offense, and any other information
118 necessary to complete the fingerprint card. The law enforcement agency or court marshal
119 shall submit such fingerprints, photograph, and if available, any other unique biometric
120 identification collected, to the central repository without undue delay and within thirty days
121 and shall furnish the offense cycle number associated with the fingerprints to the prosecuting
122 attorney or the circuit attorney of a city not within a county and to the court clerk of the court
123 ordering the subject fingerprinted.

124 10. The department of corrections and the department of mental health shall furnish
125 the central repository with all information concerning the receipt, escape, execution, death,
126 release, pardon, parole, commutation of sentence, granting of executive clemency, legal name

127 change, or discharge of an individual who has been sentenced to that department's custody for
128 any offenses which are mandated by law to be collected, maintained or disseminated by the
129 central repository. All records forwarded to the central repository by the department as
130 required by sections 43.500 to 43.651 shall include the offense cycle number of the offense,
131 and the originating agency identifier number of the department using such numbers as
132 assigned by the highway patrol.

211.071. 1. If a petition or motion to modify alleges that a child between the ages of
2 fourteen and eighteen has committed an offense that would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the juvenile
4 officer, **the office of the prosecuting attorney, the office of the attorney general if the**
5 **attorney general is acting as a special prosecuting attorney,** the child, or the child's
6 custodian, order a hearing, **at which the prosecuting attorney or attorney general may**
7 **present evidence if the prosecuting attorney or attorney general filed the petition,** and
8 may, in its discretion, dismiss the petition or motion to modify and such child may be
9 transferred to the court of general jurisdiction and prosecuted under the general law; except
10 that, if a petition alleges that a child between the ages of twelve and eighteen has committed
11 an offense that would be considered first degree murder under section 565.020, second degree
12 murder under section 565.021, first degree assault under section 565.050, forcible rape under
13 section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section
14 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013,
15 sodomy in the first degree under section 566.060, first degree robbery under section 569.020
16 as it existed prior to January 1, 2017, robbery in the first degree under section 570.023,
17 distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or the
18 manufacturing of a controlled substance under section 579.055, if committed by an adult, or a
19 dangerous felony as defined in section 556.061, or any felony involving the use, assistance, or
20 aid of a deadly weapon, or has committed two or more prior unrelated offenses that would be
21 felonies if committed by an adult, the court shall order a hearing, and may, in its discretion,
22 dismiss the petition or motion to modify and transfer the child to a court of general
23 jurisdiction for prosecution under the general law.

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

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

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

39 5. The juvenile officer ~~[may]~~ **shall** consult with the office of prosecuting attorney
40 concerning any offense for which the child could be certified as an adult under this section.
41 The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile
42 or deputy juvenile officer, statements of witnesses, **a copy of the completed Missouri**
43 **juvenile detention assessment (JDTA) form that was used in determining detention,** and
44 all other records or reports relating to the offense alleged to have been committed by the
45 child. The prosecuting or circuit attorney shall have access to the disposition records of the
46 child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of
47 section 211.031. The prosecuting attorney shall not divulge any information regarding the
48 child and the offense until the juvenile court at a judicial hearing has determined that the child
49 is not a proper subject to be dealt with under the provisions of this chapter. **Any use of the**
50 **JDTA or any other assessment system to determine if a juvenile may be held shall be**
51 **used as a guideline but shall not be mandatory.**

52 6. **In every incident, the juvenile officer shall consider all charges submitted by**
53 **law enforcement when utilizing the JDTA form when determining whether to detain a**
54 **juvenile and shall provide a copy of the completed JDTA form back to the law**
55 **enforcement agency once a determination has been made.**

56 7. **Notwithstanding any provision of law or Missouri supreme court operating**
57 **rule, law enforcement agencies that detain juveniles for offenses reportable under**
58 **section 43.506 shall collect fingerprints and forward detention information to the central**
59 **repository in a manner prescribed by the central repository. The juvenile officer and**
60 **court of jurisdiction over the juvenile offender shall report all adjudication,**
61 **delinquency, and custody information to the central repository in a manner**
62 **prescribed by the central repository. All information reported under this subsection**
63 **shall be available to criminal justice agencies for the administration of criminal justice**
64 **under section 43.500 through the Missouri uniform law enforcement system (MULES).**

65 8. A written report shall be prepared in accordance with this chapter developing fully
66 all available information relevant to the criteria which shall be considered by the court in
67 determining whether the child is a proper subject to be dealt with under the provisions of this

chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria shall include but not be limited to:

- (1) The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;
- (2) Whether the offense alleged involved viciousness, force and violence;
- (3) Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;
- (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation under the juvenile code;
- (5) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;
- (6) The sophistication and maturity of the child as determined by consideration of his or her home and environmental situation, emotional condition and pattern of living;
- (7) The age of the child;
- (8) The program and facilities available to the juvenile court in considering disposition;
- (9) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and
- (10) Racial disparity in certification.

~~[7-]~~ **9.** If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

- (1) Findings showing that the court had jurisdiction of the cause and of the parties;
- (2) Findings showing that the child was represented by counsel;
- (3) Findings showing that the hearing was held in the presence of the child and his or her counsel; and
- (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

~~[8-]~~ **10.** A copy of the petition or motion to modify and order of the dismissal shall be sent to the prosecuting attorney.

~~[9-]~~ **11.** When a petition or motion to modify has been dismissed thereby permitting a child to be prosecuted under the general law and the prosecution of the child results in a conviction, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.

~~[10-]~~ **12.** If a petition or motion to modify has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense

105 committed by that child which would be considered a misdemeanor or felony if committed by
106 an adult, subject to the certification provisions of this section.

107 ~~[H.]~~ **13.** If the court does not dismiss the petition or motion to modify to permit the
108 child to be prosecuted under the general law, it shall set a date for the hearing upon the
109 petition as provided in section 211.171.

110 **14. Parents, guardians, or other persons legally charged with the care or custody**
111 **of a child under eighteen years of age who recklessly fail or refuse to exercise reasonable**
112 **diligence in the care or control of such child to prevent the child from being a repeat**
113 **offender of the violations outlined in section 211.031 shall be charged with endangering**
114 **the welfare of a child in the second degree under section 568.050.**

115 **15. Any person eighteen years of age or older who knowingly encourages, aids,**
116 **or causes a child under eighteen years of age to engage in any conduct that violates the**
117 **provisions of chapter 571 or 579 or section 211.031 shall be charged with endangering**
118 **the welfare of a child in the first degree under section 568.045.**

211.151. 1. Pending disposition of a case, the juvenile court may order in writing the
2 detention of a child in one of the following places:

3 (1) A juvenile detention facility provided by the county;

4 (2) A shelter care facility, subject to the supervision of the court;

5 (3) A suitable place of detention maintained by an association having for one of its
6 objects the care and protection of children;

7 (4) Such other suitable custody as the court may direct.

8 2. A child shall not be detained in a jail or other adult detention facility pending
9 disposition of a case.

10 3. Law enforcement officers shall take fingerprints and photographs of a child taken
11 into custody for offenses that would be ~~considered felonies~~ **reportable under section**
12 **43.506** if committed by adults~~, without the approval of the juvenile judge~~. A child taken
13 into custody as a victim of abuse or neglect or as a status offender pursuant to subdivision (1)
14 or (2) of subsection 1 of section 211.031 ~~[or for an offense that would be considered a~~
15 ~~misdemeanor if committed by an adult]~~ may be fingerprinted or photographed with the
16 consent of the juvenile judge. Records of a child who has been fingerprinted and
17 photographed after being taken into custody shall be closed records as provided under section
18 610.100 if a petition has not been filed within thirty days of the date that the child was taken
19 into custody; and if a petition for the child has not been filed within one year of the date the
20 child was taken into custody, any records relating to the child concerning the alleged offense
21 may be expunged under the procedures in sections 610.122 to 610.126.

22 4. (1) As used in this section, the term "jail or other adult detention facility" means
23 any locked facility administered by state, county or local law enforcement and correctional

24 agencies, a primary purpose of which is to detain adults charged with violating a criminal law
25 pending trial, including facilities of a temporary nature which do not hold persons after they
26 have been formally charged, or to confine adults convicted of an offense. The term "jail or
27 other adult detention facility" does not include a juvenile detention facility.

28 (2) As used in this section, the term "juvenile detention facility" means a place,
29 institution, building or part thereof, set of buildings or area, whether or not enclosing a
30 building or set of buildings, which has been designated by the juvenile court as a place of
31 detention for juveniles and which is operated, administered and staffed separately and
32 independently of a jail or other detention facility for adults and used exclusively for the lawful
33 custody and treatment of juveniles. The facility may be owned or operated by public or
34 private agencies. A juvenile detention facility may be located in the same building or grounds
35 as a jail or other adult detention facility if there is spatial separation between the facilities
36 which prevents haphazard or accidental contact between juvenile and adult detainees; there is
37 separation between juvenile and adult program activities; and there are separate juvenile and
38 adult staff other than specialized support staff who have infrequent contact with detainees.

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