

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 2498

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CHRIST.

5281H.04P

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 43.503, 211.071, 211.151, and 211.261, RSMo, and to enact in lieu thereof four new sections relating to the certification of a juvenile for trial as an adult, with penalty provisions.

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

Section A. Sections 43.503, 211.071, 211.151, and 211.261, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 43.503, 211.071, 211.151,  
3 and 211.261, to read as follows:

43.503. 1. For the purpose of maintaining complete and accurate criminal history  
2 record information, all police officers of this state, the clerk of each court, the department of  
3 corrections, the sheriff of each county, the chief law enforcement official of a city not within a  
4 county and the prosecuting attorney of each county or the circuit attorney of a city not within  
5 a county shall submit certain criminal arrest, charge, and disposition information to the  
6 central repository for filing without undue delay in the form and manner required by sections  
7 43.500 to 43.651.

8 2. All law enforcement agencies making misdemeanor and felony arrests as  
9 determined by section 43.506 shall furnish without undue delay, to the central repository,  
10 fingerprints, photograph, and if available, any other unique biometric identification collected,  
11 charges, appropriate charge codes, and descriptions of all persons who are arrested for such  
12 offenses on standard fingerprint forms supplied or approved by the highway patrol or  
13 electronically in a format and manner approved by the highway patrol and in compliance with

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.

14 the standards set by the Federal Bureau of Investigation in its Automated Fingerprint  
15 Identification System or its successor program. All such agencies shall also notify the central  
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 **class A or B felony, felony under chapter 566, or two felony offenses committed**  
36 **within one hundred eighty days of each other**, if committed by an adult, the arresting  
37 officer shall take fingerprints for the central repository. These fingerprints shall be taken on  
38 fingerprint cards supplied by or approved by the highway patrol or transmitted electronically  
39 in a format and manner approved by the highway patrol and in compliance with the standards  
40 set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System  
41 or its successor program. [~~The fingerprint cards shall be so constructed that the name of the~~  
42 ~~juvenile should not be made available to the central repository.~~] The individual's name and  
43 the unique number associated with the fingerprints and other pertinent information shall be  
44 provided to the court of jurisdiction by the agency taking the juvenile into custody. The  
45 juvenile's fingerprints and other information shall be forwarded to the central repository and  
46 the courts without undue delay. The fingerprint information from the card shall be captured  
47 and stored in the automated fingerprint identification system operated by the central  
48 repository. In the event the fingerprints are found to match other tenprints or unsolved latent  
49 prints, the central repository shall notify the submitting agency who shall notify the court of  
50 jurisdiction as per local agreement. [~~Under section 211.031, in instances where a juvenile~~

51 ~~over fifteen and one-half years of age is alleged to have violated a state or municipal traffic~~  
52 ~~ordinance or regulation, which does not constitute a felony, and the juvenile court does not~~  
53 ~~have jurisdiction, the juvenile shall not be fingerprinted unless certified as an adult.]~~

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

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

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

85             (1) All judgments of not guilty, acquittals on the ground of mental disease or defect  
86 excluding responsibility, judgments or pleas of guilty including the sentence, if any, or

87 probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in  
88 the trial court;

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

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

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

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

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

123 attorney or the circuit attorney of a city not within a county and to the court clerk of the court  
124 ordering the subject fingerprinted.

125 10. The department of corrections and the department of mental health shall furnish  
126 the central repository with all information concerning the receipt, escape, execution, death,  
127 release, pardon, parole, commutation of sentence, granting of executive clemency, legal name  
128 change, or discharge of an individual who has been sentenced to that department's custody for  
129 any offenses which are mandated by law to be collected, maintained or disseminated by the  
130 central repository. All records forwarded to the central repository by the department as  
131 required by sections 43.500 to 43.651 shall include the offense cycle number of the offense,  
132 and the originating agency identifier number of the department using such numbers as  
133 assigned by the highway patrol.

211.071. 1. **(1)** If a petition or motion to modify alleges that a child between the ages  
2 of fourteen and eighteen has committed an offense that would be considered a **class A or B**  
3 **felony, felony under chapter 566, or two felony offenses committed within one hundred**  
4 **eighty days of each other**, if committed by an adult, the court may, upon its own motion or  
5 upon motion by the juvenile officer, **the office of the prosecuting attorney, the office of the**  
6 **attorney general if the attorney general is acting as a special prosecuting attorney**, the  
7 child, or the child's custodian, order a hearing, **at which the prosecuting attorney or**  
8 **attorney general may present evidence if the prosecuting attorney or attorney general**  
9 **filed the petition**, and may, in its discretion, dismiss the petition or motion to modify and  
10 such child may be transferred to the court of general jurisdiction and prosecuted under the  
11 general law; except that, if a petition alleges that a child between the ages of twelve and  
12 eighteen has committed an offense that would be considered first degree murder under section  
13 565.020, second degree murder under section 565.021, first degree assault under section  
14 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the  
15 first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior  
16 to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery  
17 under section 569.020 as it existed prior to January 1, 2017, robbery in the first degree under  
18 section 570.023, distribution of drugs under section 195.211 as it existed prior to January 1,  
19 2017, or the manufacturing of a controlled substance under section 579.055, if committed by  
20 an adult, or a dangerous felony as defined in section 556.061, or any felony involving the use,  
21 assistance, or aid of a deadly weapon, or has committed two or more prior unrelated offenses  
22 that would be felonies if committed by an adult, the court shall order a hearing, and may, in its  
23 discretion, dismiss the petition or motion to modify and transfer the child to a court of general  
24 jurisdiction for prosecution under the general law.

25 **(2) The moving party shall be solely responsible for all duties enumerated under**  
26 **this section. If the juvenile officer forwards to the prosecutor a class A or B felony that**

27 **is not certified by the juvenile officer, the prosecutor shall notify the juvenile officer**  
28 **within thirty days of the decision to certify the case.**

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

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

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

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

57         6. **In every incident, the juvenile officer shall consider legally sufficient charges**  
58 **submitted by law enforcement when utilizing the JDTA form when determining whether**  
59 **to detain a juvenile and shall provide a copy of the completed JDTA form back to the**  
60 **law enforcement agency once a determination has been made.**

61         7. **Notwithstanding any provision of law or Missouri supreme court operating**  
62 **rule, law enforcement agencies that detain juveniles for offenses that would be a class A**  
63 **or B felony, felony under chapter 566, or two felony offenses committed within one**

64 **hundred eighty days of each other, if committed by an adult, shall collect fingerprints**  
65 **and forward detention information to the central repository in a manner prescribed by**  
66 **the central repository. The juvenile officer and court of jurisdiction over the juvenile**  
67 **offender shall report all adjudication, delinquency, and custody information to the**  
68 **central repository in a manner prescribed by the central repository. All information**  
69 **reported under this subsection shall be available to criminal justice agencies for the**  
70 **administration of criminal justice under section 43.500 through the Missouri uniform**  
71 **law enforcement system (MULES).**

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

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

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

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

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

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

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

88 (7) The age of the child;

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

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

93 (10) Racial disparity in certification.

94 ~~[7-]~~ **9.** If the court dismisses the petition to permit the child to be prosecuted under the  
95 general law, the court shall enter a dismissal order containing:

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

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

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

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

102 ~~[8:]~~ **10.** A copy of the petition or motion to modify and order of the dismissal shall be  
103 sent to the prosecuting attorney.

104 ~~[9:]~~ **11.** When a petition or motion to modify has been dismissed thereby permitting a  
105 child to be prosecuted under the general law and the prosecution of the child results in a  
106 conviction, the jurisdiction of the juvenile court over that child is forever terminated, except  
107 as provided in subsection 10 of this section, for an act that would be a violation of a state law  
108 or municipal ordinance.

109 ~~[10:]~~ **12.** If a petition or motion to modify has been dismissed thereby permitting a  
110 child to be prosecuted under the general law and the child is found not guilty by a court of  
111 general jurisdiction, the juvenile court shall have jurisdiction over any later offense  
112 committed by that child which would be considered a misdemeanor or felony if committed by  
113 an adult, subject to the certification provisions of this section.

114 ~~[11:]~~ **13.** If the court does not dismiss the petition or motion to modify to permit the  
115 child to be prosecuted under the general law, it shall set a date for the hearing upon the  
116 petition as provided in section 211.171.

117 **14. For purposes of this section, the term "legally sufficient" means a reasonable**  
118 **belief with articulable facts that a crime has been or is being committed based on the**  
119 **totality of the circumstances.**

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.

211.261. 1. An appeal shall be allowed to the child from any final judgment, order or  
2 decree made under the provisions of this chapter and may be taken on the part of the child by  
3 its parent, guardian, legal custodian, spouse, relative or next friend. An appeal shall be  
4 allowed to a parent from any final judgment, order or decree made under the provisions of  
5 this chapter which adversely affects him. An appeal shall be allowed to the juvenile officer,  
6 **prosecuting attorney, or attorney general** from any final judgment, order or decree made  
7 under this chapter, except that no such appeal shall be allowed concerning a final  
8 determination pursuant to subdivision (3) of subsection 1 of section 211.031. Notice of  
9 appeal shall be filed within thirty days after the final judgment, order or decree has been  
10 entered but neither the notice of appeal nor any motion filed subsequent to the final judgment  
11 acts as a supersedeas unless the court so orders.

12 2. Notwithstanding the provisions of subsection 1 of this section, an appeal shall be  
13 allowed to the:

14 (1) Juvenile officer from any order suppressing evidence, a confession or an  
15 admission, in proceedings under subdivision (3) of subsection 1 of section 211.031;

16           **(2) Juvenile officer, prosecuting attorney, or attorney general under section**  
17 **211.071; or**

18           ~~[(2)]~~ **(3)** Parent, guardian ad litem, child's counsel, or juvenile officer from any order  
19 changing or modifying the placement of a child.

20           3. The appeal provided for in subsection 2 of this section shall be an interlocutory  
21 appeal, filed in the appropriate district of the Missouri court of appeals. Notice of such  
22 interlocutory appeal shall be filed within three days of the entry of the order of trial court; the  
23 time limits applicable to such appeal shall be the same as in interlocutory appeals allowed to  
24 the state in criminal cases.

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