

SECOND REGULAR SESSION

HOUSE BILL NO. 2443

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BUTZ.

5376H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 211.071 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session and section 211.071 as enacted by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, and to enact in lieu thereof one new section relating to the certification of juveniles for trial as adults, with a delayed effective date for a certain section.

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

Section A. Section 211.071 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session and section 211.071 as enacted by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, are repealed and one new section enacted in lieu thereof, to be known as section 211.071, to read as follows:

211.071. 1. If a petition alleges that a child between the ages of twelve and eighteen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under section 569.020 as it existed prior to January 1, 2017, or robbery in the first

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.

12 degree under section 570.023, distribution of drugs under section 195.211 as it existed prior to
13 January 1, 2017, or the manufacturing of a controlled substance under section 579.055, or has
14 committed two or more prior unrelated offenses which would be felonies if committed by an
15 adult, **has committed any offense under section 571.030, or has committed any offense that**
16 **would be a felony if committed by an adult and has committed armed criminal action by**
17 **committing such felony by, with, or through the use, assistance, or aid of a deadly weapon**
18 **as provided under section 571.015**, the court shall order a hearing, and may in its discretion,
19 dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under
20 the general law.

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

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

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

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

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

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

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

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

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

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

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

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

61 (7) The age of the child;

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

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

65 (10) Racial disparity in certification.

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

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

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

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

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

73 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting
74 attorney.

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

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

84 11. If the court does not dismiss the petition to permit the child to be prosecuted under
85 the general law, it shall set a date for the hearing upon the petition as provided in section
86 211.171.

211.071. 1. If a petition alleges that a child between the ages of twelve and seventeen
2 has committed an offense which would be considered a felony if committed by an adult, the court
3 may, upon its own motion or upon motion by the juvenile officer, the child or the child's
4 custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be
5 transferred to the court of general jurisdiction and prosecuted under the general law; except that
6 if a petition alleges that any child has committed an offense which would be considered first
7 degree murder under section 565.020, second degree murder under section 565.021, first degree
8 assault under section 565.050, forcible rape under section 566.030 as it existed prior to August
9 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060
10 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first
11 degree robbery under section 570.023, or distribution of drugs under section 579.055, or has
12 committed two or more prior unrelated offenses which would be felonies if committed by an
13 adult, **has committed any offense under section 571.030, or has committed any offense that**
14 **would be a felony if committed by an adult and has committed armed criminal action by**
15 **committing such felony by, with, or through the use, assistance, or aid of a deadly weapon**
16 **as provided under section 571.015**, the court shall order a hearing, and may in its discretion,
17 dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under
18 the general law.

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

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

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29 hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the
30 hearing is to determine whether the child is a proper subject to be dealt with under the provisions
31 of this chapter, and that if the court finds that the child is not a proper subject to be dealt with
32 under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the
33 child under the general law.

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56 system, other courts, supervision, commitments to juvenile institutions and other placements;

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58 home and environmental situation, emotional condition and pattern of living;

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76 section, for an act that would be a violation of a state law or municipal ordinance.

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83 the general law, it shall set a date for the hearing upon the petition as provided in section
84 211.171.

Section B. The repeal and reenactment of the first occurrence of section 211.071 of this
2 act shall become effective on January 1, 2021, and the repeal and reenactment of the second
3 occurrence of section 211.071 of this act shall become effective on August 28, 2020.

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