

SECOND REGULAR SESSION

HOUSE BILL NO. 2880

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MURPHY.

5876H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 211.031, 211.071, 211.321, and 571.070, RSMo, and to enact in lieu thereof five new sections relating to juvenile offenses, with penalty provisions.

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

Section A. Sections 211.031, 211.071, 211.321, and 571.070, RSMo, are repealed and
2 five new sections enacted in lieu thereof, to be known as sections 211.031, 211.071, 211.321,
3 571.070, and 571.077, to read as follows:

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the
2 family court in circuits that have a family court as provided in chapter 487 shall have
3 exclusive original jurisdiction in proceedings:

4 (1) Involving any child who may be a resident of or found within the county and who
5 is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the
7 child, neglect or refuse to provide proper support, education which is required by law,
8 medical, surgical or other care necessary for his or her well-being; except that reliance by a
9 parent, guardian or custodian upon remedial treatment other than medical or surgical
10 treatment for a child shall not be construed as neglect when the treatment is recognized or
11 permitted pursuant to the laws of this state;

12 (b) The child is otherwise without proper care, custody or support;

13 (c) The child was living in a room, building or other structure at the time such
14 dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to
15 section 195.130; or

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 (d) The child is in need of mental health services and the parent, guardian or
17 custodian is unable to afford or access appropriate mental health treatment or care for the
18 child;

19 (2) Involving any child who may be a resident of or found within the county and who
20 is alleged to be in need of care and treatment because:

21 (a) The child while subject to compulsory school attendance is repeatedly and without
22 justification absent from school;

23 (b) The child disobeys the reasonable and lawful directions of his or her parents or
24 other custodian and is beyond their control;

25 (c) The child is habitually absent from his or her home without sufficient cause,
26 permission, or justification;

27 (d) The behavior or associations of the child are otherwise injurious to his or her
28 welfare or to the welfare of others; or

29 (e) The child is charged with an offense not classified as criminal, or with an offense
30 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
31 child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance
32 or regulation, the violation of which does not constitute a felony, or any child who is alleged
33 to have violated a state or municipal ordinance or regulation prohibiting possession or use of
34 any tobacco product;

35 (3) Involving any child who is alleged to have violated a state law or municipal
36 ordinance, or any person who is alleged to have violated a state law or municipal ordinance
37 prior to attaining the age of eighteen years, in which cases jurisdiction may be taken by the
38 court of the circuit in which the child or person resides or may be found or in which the
39 violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction
40 over any child fifteen years of age who is alleged to have violated a state or municipal traffic
41 ordinance or regulation, the violation of which does not constitute a felony, and except that
42 the juvenile court:

43 (a) Shall have concurrent jurisdiction with the municipal court over any child who is
44 alleged to have violated a municipal curfew ordinance~~[-, and except that the juvenile court];~~

45 (b) Shall have concurrent jurisdiction with the circuit court on any child who is
46 alleged to have violated a state or municipal ordinance or regulation prohibiting possession or
47 use of any tobacco product; **and**

48 (c) **Shall have concurrent jurisdiction with the circuit court on any child who is**
49 **alleged to have committed an offense that would be classified as a class B felony or**
50 **higher if committed by an adult;**

51 (4) For the adoption of a person;

52 (5) For the commitment of a child to the guardianship of the department of social
53 services as provided by law;

54 (6) Involving an order of protection pursuant to chapter 455 when the respondent is
55 less than eighteen years of age; and

56 (7) Involving a child who has been a victim of sex trafficking or sexual exploitation.

57 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child who resides
58 in a county of this state shall be made as follows:

59 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
60 the juvenile officer, the matter in the interest of a child may be transferred by the juvenile
61 officer, with the prior consent of the juvenile officer of the receiving court, to the county of
62 the child's residence or the residence of the person eighteen years of age for future action;

63 (2) Upon the motion of any party or on its own motion prior to final disposition on the
64 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
65 a child to the court located in the county of the child's residence, or the county in which the
66 offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred
67 for further action;

68 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
69 been taken pursuant to subsection 1 of this section may at any time thereafter transfer
70 jurisdiction of a child to the court located in the county of the child's residence for further
71 action with the prior consent of the receiving court;

72 (4) Upon motion of any party or upon its own motion at any time following a
73 judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction
74 of the cause may place the child under the supervision of another juvenile court within or
75 without the state pursuant to section 210.570 with the consent of the receiving court;

76 (5) Upon motion of any child or his or her parent, the court having jurisdiction shall
77 grant one change of judge pursuant to Missouri supreme court rules;

78 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child,
79 certified copies of all legal and social documents and records pertaining to the case on file
80 with the clerk of the transferring juvenile court shall accompany the transfer.

81 3. In any proceeding involving any child taken into custody in a county other than the
82 county of the child's residence, the juvenile court of the county of the child's residence shall
83 be notified of such taking into custody within seventy-two hours.

84 4. When an investigation by a juvenile officer pursuant to this section reveals that the
85 only basis for action involves an alleged violation of section 167.031 involving a child who
86 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child
87 to verify that the child is being home schooled and not in violation of section 167.031 before
88 making a report of such a violation. Any report of a violation of section 167.031 made by a

89 juvenile officer regarding a child who is being home schooled shall be made to the
90 prosecuting attorney of the county where the child legally resides.

91 5. The disability or disease of a parent shall not constitute a basis for a determination
92 that a child is a child in need of care or for the removal of custody of a child from the parent
93 without a specific showing that there is a causal relation between the disability or disease and
94 harm to the child.

211.071. 1. If a petition alleges that a child between the ages of twelve and eighteen
2 has committed an offense which would be considered a felony if committed by an adult, the
3 court 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
5 be transferred to the court of general jurisdiction and prosecuted under the general law; except
6 that if a petition alleges that any child has committed **the offense of unlawful possession of a**
7 **firearm under subdivision (3) of subsection 1 of section 571.070** or an offense which
8 would be considered first degree murder under section 565.020, second degree murder under
9 section 565.021, first degree assault under section 565.050, forcible rape under section
10 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030,
11 forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the
12 first degree under section 566.060, first degree robbery under section 569.020 as it existed
13 prior to January 1, 2017, ~~[or]~~ robbery in the first degree under section 570.023, distribution of
14 drugs under section 195.211 as it existed prior to January 1, 2017, or the manufacturing of a
15 controlled substance under section 579.055, **if committed by an adult, or has committed an**
16 **offense in which the child used a firearm in the commission of the offense and such**
17 **offense would be considered a felony offense if committed by an adult**, or has committed
18 two or more prior unrelated offenses which would be felonies if committed by an adult, the
19 court shall order a hearing, and may in its discretion, dismiss the petition and transfer the
20 child to a court of general jurisdiction for prosecution under 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
23 juvenile court has retained continuing jurisdiction shall automatically terminate and that
24 offense shall be 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
26 any action or proceeding which occurs based upon the misrepresentation. Any evidence
27 obtained during the period of time in which a child misrepresents his or her age may be used
28 against the 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
30 her 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

32 the hearing is to determine whether the child is a proper subject to be dealt with under the
33 provisions of this chapter, and that if the court finds that the child is not a proper subject to be
34 dealt with under the provisions of this chapter, the petition will be dismissed to allow for
35 prosecution of the 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
38 prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or
39 deputy juvenile officer, statements of witnesses and all other records or reports relating to the
40 offense alleged to have been committed by the child. The prosecuting or circuit attorney shall
41 have access to the disposition records of the child when the child has been adjudicated
42 pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall
43 not divulge any information regarding the child and the offense until the juvenile court at a
44 judicial hearing has determined that the child is not a proper subject to be dealt with under the
45 provisions of this chapter.

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

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

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

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

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

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

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

62 (7) The age of the child;

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

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

67 (10) Racial disparity in certification.

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

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

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

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

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

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

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

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

87 11. If the court does not dismiss the petition to permit the child to be prosecuted under
88 the general law, it shall set a date for the hearing upon the petition as provided in section
89 211.171.

211.321. 1. Records of juvenile court proceedings as well as all information obtained
2 and social records prepared in the discharge of official duty for the court shall not be open to
3 inspection or their contents disclosed, except by order of the court to persons having a
4 legitimate interest therein, unless a petition or motion to modify is sustained which charges
5 the child with an offense which, if committed by an adult, would be a class A felony under the
6 criminal code of Missouri, or capital murder, first degree murder, or second degree murder or
7 except as provided in subsection 2 **or** 3 of this section. In addition, whenever a report is
8 required under section 557.026, there shall also be included a complete list of certain
9 violations of the juvenile code for which the defendant had been adjudicated a delinquent
10 while a juvenile. This list shall be made available to the probation officer and shall be
11 included in the presentence report. The violations to be included in the report are limited to
12 the following: rape, sodomy, murder, kidnapping, robbery, arson, burglary or any acts
13 involving the rendering or threat of serious bodily harm. The supreme court may promulgate
14 rules to be followed by the juvenile courts in separating the records.

15 2. In all proceedings under subdivision (2) of subsection 1 of section 211.031, the
16 records of the juvenile court as well as all information obtained and social records prepared in
17 the discharge of official duty for the court shall be kept confidential and shall be open to
18 inspection only by order of the judge of the juvenile court or as otherwise provided by statute.
19 In all proceedings under subdivision (3) of subsection 1 of section 211.031 the records of the
20 juvenile court as well as all information obtained and social records prepared in the discharge
21 of official duty for the court shall be kept confidential and may be open to inspection without
22 court order only as follows:

23 (1) The juvenile officer is authorized at any time:

24 (a) To provide information to or discuss matters concerning the child, the violation of
25 law or the case with the victim, witnesses, officials at the child's school, law enforcement
26 officials, prosecuting attorneys, any person or agency having or proposed to have legal or
27 actual care, custody or control of the child, or any person or agency providing or proposed to
28 provide treatment of the child. Information received pursuant to this paragraph shall not be
29 released to the general public, but shall be released only to the persons or agencies listed in
30 this paragraph;

31 (b) To make public information concerning the offense, the substance of the petition,
32 the status of proceedings in the juvenile court and any other information which does not
33 specifically identify the child or the child's family;

34 (2) After a child has been adjudicated delinquent pursuant to subdivision (3) of
35 subsection 1 of section 211.031, for an offense which would be a felony if committed by an
36 adult, the records of the dispositional hearing and proceedings related thereto shall be open to
37 the public to the same extent that records of criminal proceedings are open to the public.
38 However, the social summaries, investigations or updates in the nature of presentence
39 investigations, and status reports submitted to the court by any treating agency or individual
40 after the dispositional order is entered shall be kept confidential and shall be opened to
41 inspection only by order of the judge of the juvenile court;

42 (3) As otherwise provided by statute;

43 (4) In all other instances, only by order of the judge of the juvenile court.

44 3. **The name and photograph of a child may be released to the public if the child**
45 **escapes from the custody of a juvenile detention facility while the child is in the custody**
46 **of the juvenile detention facility for an offense that would be considered a felony offense**
47 **if committed by an adult.**

48 4. Peace officers' records, if any are kept, of children shall be kept separate from the
49 records of persons eighteen years of age or over and shall not be open to inspection or their
50 contents disclosed, except by order of the court. This subsection does not apply to children
51 who are transferred to courts of general jurisdiction as provided by section 211.071 or to

52 juveniles convicted under the provisions of sections 578.421 to 578.437. This subsection
53 does not apply to the inspection or disclosure of the contents of the records of peace officers
54 for the purpose of pursuing a civil forfeiture action pursuant to the provisions of section
55 195.140.

56 ~~[4-]~~ 5. Nothing in this section shall be construed to prevent the release of information
57 and data to persons or organizations authorized by law to compile statistics relating to
58 juveniles. The court shall adopt procedures to protect the confidentiality of children's names
59 and identities.

60 ~~[5-]~~ 6. The court may, either on its own motion or upon application by the child or his
61 or her representative, or upon application by the juvenile officer, enter an order to destroy all
62 social histories, records, and information, other than the official court file, and may enter an
63 order to seal the official court file, as well as all peace officers' records, at any time after the
64 child has reached his or her eighteenth birthday if the court finds that it is in the best interest
65 of the child that such action or any part thereof be taken, unless the jurisdiction of the court is
66 continued beyond the child's eighteenth birthday, in which event such action or any part
67 thereof may be taken by the court at any time after the closing of the child's case.

68 ~~[6-]~~ 7. Nothing in this section shall be construed to prevent the release of general
69 information regarding the informal adjustment or formal adjudication of the disposition of a
70 child's case to a victim or a member of the immediate family of a victim of any offense
71 committed by the child. Such general information shall not be specific as to location and
72 duration of treatment or detention or as to any terms of supervision.

73 ~~[7-]~~ 8. Records of juvenile court proceedings as well as all information obtained and
74 social records prepared in the discharge of official duty for the court shall be disclosed to the
75 child fatality review panel reviewing the child's death pursuant to section 210.192 unless the
76 juvenile court on its own motion, or upon application by the juvenile officer, enters an order
77 to seal the records of the victim child.

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

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

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

8 (3) **Such person is under eighteen years of age and has been adjudicated a**
9 **delinquent by a juvenile court for committing an offense that would be considered a**
10 **felony offense if committed by an adult.**

11 2. Unlawful possession of a firearm is a class D felony, unless a person has been
12 convicted of a dangerous felony as defined in section 556.061, in which case it is a class C
13 felony.

14 3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to
15 the possession of an antique firearm.

**571.077. 1. A person who is the parent or guardian of a child under eighteen
2 years of age commits the offense of failure to supervise a child in possession of a firearm
3 if:**

4 **(1) The child has been adjudicated a delinquent by a juvenile court;**

5 **(2) The person knowingly sells, leases, loans, gives away, or delivers a firearm to
6 the child;**

7 **(3) The person knowingly fails to supervise the child in all uses of the firearm;
8 and**

9 **(4) The child uses the firearm in the commission of a criminal offense or causes
10 serious bodily injury or death as a result of his or her use of the firearm.**

11 **2. The offense of failure to supervise a child in possession of a firearm is a class A
12 misdemeanor, except that if the child causes serious bodily injury or death as a result of
13 his or her use of the firearm, it is a class D felony.**

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