

SECOND REGULAR SESSION

# SENATE BILL NO. 1105

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 29, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6344S.02I

## AN ACT

To repeal section 211.059, RSMo, and to enact in lieu thereof one new section relating to a child taken into custody.

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

Section A. Section 211.059, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 211.059, to read as follows:

211.059. 1. When a child is taken into custody by a juvenile officer or law  
2 enforcement official, with or without a warrant for an offense in violation of the  
3 juvenile code or the general law which would place the child under the  
4 jurisdiction of the juvenile court pursuant to subdivision (2) or (3) of subsection  
5 1 of section 211.031, the child shall be advised prior to questioning:

6 (1) That he **or she** has the right to remain silent; and

7 (2) That any statement he **or she** does make to anyone can be and may  
8 be used against him **or her**; and

9 (3) That he **or she** has a right to have a parent, guardian or custodian  
10 present during questioning; and

11 (4) That he **or she** has a right to consult with an attorney and that one  
12 will be appointed and paid for him **or her** if he **or she** cannot afford one.

13 2. If the child indicates in any manner and at any stage of questioning  
14 pursuant to this section that he **or she** does not wish to be questioned further,  
15 the officer shall cease questioning.

16 3. When a child is taken into custody by a juvenile officer or law  
17 enforcement official which places the child under the jurisdiction of the juvenile  
18 court under subdivision (1) of subsection 1 of section 211.031, including any  
19 interactions with the child by the children's division, the following shall apply:

20 (1) If the child indicates in any manner at any stage during questioning

21 involving the alleged abuse and neglect that the child does not wish to be  
22 questioned any further on the allegations, or that the child wishes to have his or  
23 her parent, legal guardian, or custodian if such parent, guardian, or custodian is  
24 not the alleged perpetrator, or his or her attorney present during questioning as  
25 to the alleged abuse, the questioning of the child shall cease on the alleged abuse  
26 and neglect until such a time that the child does not object to talking about the  
27 alleged abuse and neglect unless the interviewer has reason to believe that the  
28 parent, legal guardian, or custodian is acting to protect the alleged  
29 perpetrator. Nothing in this subdivision shall be construed to prevent the asking  
30 of any questions necessary for the care, treatment, or placement of a child; and

31 (2) Notwithstanding any prohibition of hearsay evidence, all video or  
32 audio recordings of any meetings, interviews, or interrogations of a child shall be  
33 presumed admissible as evidence in any court or administrative proceeding  
34 involving the child if the following conditions are met:

35 (a) Such meetings, interviews, or interrogations of the child are conducted  
36 by the state prior to or after the child is taken into the custody of the state; and

37 (b) Such video or audio recordings were made prior to the adjudication  
38 hearing in the case. Nothing in this paragraph shall be construed to prohibit the  
39 videotaping or audiotaping of any such meetings, interviews, or interrogations of  
40 a child after the adjudication hearing; and

41 (3) Only upon a showing by clear and convincing evidence that such a  
42 video or audio recording lacks sufficient indicia of reliability shall such recording  
43 be inadmissible.

44 The provisions of this subsection shall not apply to statements admissible under  
45 section 491.075 or 492.304 in criminal proceedings.

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