

FIRST REGULAR SESSION

SENATE BILL NO. 446

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

2106S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 211.071, RSMo, and to enact in lieu thereof one new section relating to certification of juveniles for trial as an adult, with existing penalty provision.

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

Section A. Section 211.071, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 211.071,
3 to read as follows:

211.071. 1. If a petition alleges that a child
2 between the ages of [twelve] **fourteen** and eighteen has
3 committed an offense which would be considered a felony if
4 committed by an adult, the court may, upon its own motion or
5 upon motion by the juvenile officer, the child or the
6 child's custodian, order a hearing and may, in its
7 discretion, dismiss the petition and such child may be
8 transferred to the court of general jurisdiction and
9 prosecuted under the general law; except that if a petition
10 alleges that any child has committed an offense which would
11 be considered first degree murder under section 565.020,
12 second degree murder under section 565.021, first degree
13 assault under section 565.050, forcible rape under section
14 566.030 as it existed prior to August 28, 2013, rape in the
15 first degree under section 566.030, forcible sodomy under
16 section 566.060 as it existed prior to August 28, 2013,
17 sodomy in the first degree under section 566.060, first
18 degree robbery under section 569.020 as it existed prior to

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 January 1, 2017, or robbery in the first degree under
20 section 570.023, distribution of drugs under section 195.211
21 as it existed prior to January 1, 2017, or the manufacturing
22 of a controlled substance under section 579.055, or has
23 committed two or more prior unrelated offenses which would
24 be felonies if committed by an adult, the court shall order
25 a hearing, and may in its discretion, dismiss the petition
26 and transfer the child to a court of general jurisdiction
27 for prosecution under the general law.

28 2. Upon apprehension and arrest, jurisdiction over the
29 criminal offense allegedly committed by any person between
30 eighteen and twenty-one years of age over whom the juvenile
31 court has retained continuing jurisdiction shall
32 automatically terminate and that offense shall be dealt with
33 in the court of general jurisdiction as provided in section
34 211.041.

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

42 4. Written notification of a transfer hearing shall be
43 given to the juvenile and his or her custodian in the same
44 manner as provided in sections 211.101 and 211.111. Notice
45 of the hearing may be waived by the custodian. Notice shall
46 contain a statement that the purpose of the hearing is to
47 determine whether the child is a proper subject to be dealt
48 with under the provisions of this chapter, and that if the
49 court finds that the child is not a proper subject to be
50 dealt with under the provisions of this chapter, the

51 petition will be dismissed to allow for prosecution of the
52 child under the general law.

53 5. The juvenile officer may consult with the office of
54 prosecuting attorney concerning any offense for which the
55 child could be certified as an adult under this section.
56 The prosecuting or circuit attorney shall have access to
57 police reports, reports of the juvenile or deputy juvenile
58 officer, statements of witnesses and all other records or
59 reports relating to the offense alleged to have been
60 committed by the child. The prosecuting or circuit attorney
61 shall have access to the disposition records of the child
62 when the child has been adjudicated pursuant to subdivision
63 (3) of subsection 1 of section 211.031. The prosecuting
64 attorney shall not divulge any information regarding the
65 child and the offense until the juvenile court at a judicial
66 hearing has determined that the child is not a proper
67 subject to be dealt with under the provisions of this
68 chapter.

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

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

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

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

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

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

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

96 (7) The age of the child;

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

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

102 (10) Racial disparity in certification.

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

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

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

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

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

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

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

123 10. If a petition has been dismissed thereby
124 permitting a child to be prosecuted under the general law
125 and the child is found not guilty by a court of general
126 jurisdiction, the juvenile court shall have jurisdiction
127 over any later offense committed by that child which would
128 be considered a misdemeanor or felony if committed by an
129 adult, subject to the certification provisions of this
130 section.

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

✓