

SECOND REGULAR SESSION

# SENATE BILL NO. 824

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed January 7, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4696S.01I

## 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 two new sections relating to certification of juveniles for trial as an adult, with existing penalty provisions.

*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  
2 senate bill no. 800, ninety-ninth general assembly, second regular session, and  
3 section 211.071 as enacted by house bill no. 215 merged with senate bill no. 36,  
4 ninety-seventh general assembly, first regular session, are repealed and two new  
5 sections enacted in lieu thereof, to be known as sections 211.071 and 211.071, to  
6 read as follows:

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

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

12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first  
13 degree robbery under section 569.020 as it existed prior to January 1, 2017, or  
14 robbery in the first degree under section 570.023, distribution of drugs under  
15 section 195.211 as it existed prior to January 1, 2017, [or] the manufacturing of  
16 a controlled substance under section 579.055, **any offense under section**  
17 **571.030, any offense under section 571.015**, or has committed two or more  
18 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  
20 transfer the child to a court of general jurisdiction for prosecution under the  
21 general law.

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

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

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

40 5. The juvenile officer may consult with the office of prosecuting attorney  
41 concerning any offense for which the child could be certified as an adult under  
42 this section. The prosecuting or circuit attorney shall have access to police  
43 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses  
44 and all other records or reports relating to the offense alleged to have been  
45 committed by the child. The prosecuting or circuit attorney shall have access to  
46 the disposition records of the child when the child has been adjudicated pursuant  
47 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney

48 shall not divulge any information regarding the child and the offense until the  
49 juvenile court at a judicial hearing has determined that the child is not a proper  
50 subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

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

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

72             (7) The age of the child;

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

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

77             (10) Racial disparity in certification.

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

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

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

83             (3) Findings showing that the hearing was held in the presence of the

84 child and his or her counsel; and

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

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

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

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

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

103 **12. The provisions of this section shall become effective on**  
104 **January 1, 2021.**

211.071. 1. If a petition alleges that a child between the ages of twelve  
2 and seventeen has committed an offense which would be considered a felony if  
3 committed by an adult, the court may, upon its own motion or upon motion by the  
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its  
5 discretion, dismiss the petition and such child may be transferred to the court of  
6 general jurisdiction and prosecuted under the general law; except that if a  
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11 degree under section 566.030, forcible sodomy under section 566.060 as it existed  
12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first  
13 degree robbery under section 570.023, or distribution of drugs under section  
14 579.055, or has committed two or more prior unrelated offenses which would be  
15 felonies if committed by an adult, the court shall order a hearing, and may in its

16 discretion, dismiss the petition and transfer the child to a court of general  
17 jurisdiction for prosecution under the general law.

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

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

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29 and his or her custodian in the same manner as provided in sections 211.101 and  
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31 contain a statement that the purpose of the hearing is to determine whether the  
32 child is a proper subject to be dealt with under the provisions of this chapter, and  
33 that if the court finds that the child is not a proper subject to be dealt with under  
34 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  
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54 the community requires transfer to the court of general jurisdiction;

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

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

59 (4) Whether the offense alleged is a part of a repetitive pattern of offenses  
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61 code;

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

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66 consideration of his home and environmental situation, emotional condition and  
67 pattern of living;

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70 considering disposition;

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72 rehabilitative programs available to the juvenile court; and

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95 section.

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

99 12. **The provisions of this section shall expire on December 31,**  
100 **2020.**

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Bill

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