

# Juvenile Justice and Procedures Part 4

## Missouri's Juvenile Code

INCLUDING CERTIFICATION AND OTHER  
RELATED ISSUES

## Objectives

At the end of this portion of instruction the trainee will be able to:

36. Know if there are there any circumstances when juvenile records can be released including for sentencing purposes in the pre-sentence report, and if so, to whom
37. Know if the general public is ever allowed in the Juvenile Court room
38. Know when the court may require participation by a parent or guardian and when they may be ordered to pay when a child is committed for institutionalization
39. Know if certain prior juvenile offenses can be used to impeach the credibility of a witness or the defendant in a criminal case

POST Objectives

### Objectives

- 40. Know at what age, for what type of crime and by whose authority a juvenile can be certified to the adult court; and when must the court hold a certification hearing
- 41. Know the elements of the report prepared for a certification hearing
- 42. Know the procedure regarding previously certified juveniles with regard to a new violation of State law or municipal ordinance while they are under the age of 17
- 43. Know the role of the Prosecuting Attorney regarding juveniles alleged to have violated the law
- 44. Know about the dual jurisdiction option
- 45. Know what powers of arrest juvenile officers have

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- 46. Know the statutory requirements of law enforcement officials regarding arresting as well as cooperating with juvenile officers
- 47. Know the requirements regarding the registration of juvenile sex offenders and where are the records maintained
- 48. Know what amount of restitution or reparation can be order under informal adjustment
- 49. Know if the court can order a child to work to make restitution for the damage or loss caused by his/her offense
- 50. Know the total amount the juvenile and his parents can pay in restitution
- 51. Know what other provisions are made for victims in juvenile court

POST Objectives

### Objectives

- 52. Know if a juvenile can receive the death penalty if he/she is certified
- 53. Know the implications of the "Safe Schools Act" for Law Enforcement officers
- 54. Know if a parent must ensure that their child goes to school
- 55. Know if corporal punishment permitted in Missouri schools
- 56. Know the difference between formal and informal supervision
- 57. Know if a youth from another state is apprehended in Missouri do we treat him as a "juvenile" according to our laws or his state laws

### Objectives

- 58. Know where he/she can obtain a list of the telephone numbers of all the juvenile offices and detention centers in Missouri
- 59. Know if a juvenile in Missouri can go on bond from a juvenile detention center

POST Objectives

### Confidentiality Matters

Generally, juvenile court proceedings are confidential and attendance is restricted.

#### Key Points:

Section 211.171.6 RSMo states: The general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court except in cases:

- Where the child is accused of conduct which, if committed by an adult, would be considered a class A or B felony, OR
- For conduct which would be considered a class C felony, if the child has previously been formally adjudicated for the commission of two or more unrelated acts which would have been class A, B, or C felonies, if committed by an adult.

### Confidentiality Matters

Generally, records of juvenile court proceedings, as well as all information obtained and social records prepared in the discharge of official duty for the court, shall not be open to inspection or their contents disclosed.

#### Key Points:

- Section 211.321 RSMo

However, they may be opened by order of the court to persons having a legitimate interest therein, unless a petition or motion to modify is sustained which charges the child with an offense which, if committed by an adult, would be a class A felony under the criminal code of Missouri, or capital murder, first degree murder, or second degree murder or except as provided in subsection 2 of this section.

In addition, whenever a report is required under section 557.026, RSMo, there shall also be included a complete list of certain violations of the juvenile code for which the defendant had been adjudicated a delinquent while a juvenile.

- This list shall be made available to the probation officer and shall be included in the pre-sentence report.
- The violations to be included in the report are limited to the following:
  - Rape
  - Sodomy
  - Murder
  - Kidnapping
  - Robbery
  - Arson Burglary
  - Or any acts involving the rendering or threat of serious bodily harm

The Supreme Court may promulgate rules to be followed by the juvenile courts in separating the records.

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However, in certain circumstances the records of the juvenile court, as well as all information obtained and social records prepared in the discharge of official duty for the court may be open to inspection without court order.

- 211.031 The records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and may be open to inspection without court order only as follows: The juvenile officer is authorized at any time:
  - To provide information to or discuss matters concerning the child, the violation of law or the case with the victim, witnesses, officials at the child's school, law enforcement officials, prosecuting attorneys, any person or agency having or proposed to have legal or actual care, custody or control of the child, or any person or agency providing or proposed to provide treatment of the child.
    - Information received pursuant to this paragraph shall not be released to the general public, but shall be released only to the persons or agencies listed in this paragraph;
  - To make public information concerning the offense, the substance of the petition, the status of proceedings in the juvenile court and any other information which does not specifically identify the child or the child's family

After a child has been adjudicated delinquent pursuant to subdivision (3) of subsection 1 of section 211.031, for an offense which would be a felony if committed by an adult, the records of the dispositional hearing and proceedings related thereto shall be open to the public to the same extent that records of criminal proceedings are open to the public.

- However, the social summaries, investigations or updates in the nature of pre-sentence investigations, and status reports submitted to the court by any treating agency or individual after the dispositional order is entered shall be kept confidential and shall be opened to inspection only by order of the judge of the juvenile court;
  - As otherwise provided by statute;
  - In all other instances, only by order of the judge of the juvenile court.
- Nothing in this section shall be construed to prevent the release of general information regarding the informal adjustment or formal adjudication of the disposition of a child's case to a victim or a member of the immediate family of a victim of any offense committed by the child.
  - Such general information shall not be specific as to location and duration of treatment or detention of as to any terms of supervision.
  - (Source: Sections 211.321.1, 211.321.2, and 211.321.6 RSMo.)

### Confidentiality Matters

Certain prior juvenile offenses can be used to impeach the credibility of a witness or the defendant in a criminal case.

#### Key Points:

Section 491.078 RSMo states: Notwithstanding any other provision of law to the contrary, a juvenile court adjudication for any of the following acts may be used to affect the credibility of a witness or a defendant in a criminal case, if such acts occurred within three years of the date of any sworn testimony by the witness or defendant:

- An act that would have been a class A or class B felony if committed by an adult;
- An act that would have been a class C or class D felony if committed by an adult, if the juvenile court record contains at least one other adjudication for any act that would have been a felony if committed by an adult.

In any case in which a defendant is charged with a sexual offense under the provisions of chapter 566, RSMo, a juvenile court adjudication of the defendant may be used to question the credibility of the defendant if such adjudication is for an act which would have been a violation of chapter 566, RSMo, if the act had been committed by an adult and if such juvenile court adjudication occurred within three years of the commission of the pending offense.

- If the defendant's juvenile court records contain more than one adjudication for acts which would have been violations of chapter 566, RSMo, if committed by an adult, such multiple adjudications shall be admissible for impeachment regardless of when they occurred.
- (Source: Sections 211.321.1, 211.321.2, and 211.321.6 RSMo.)

### Certification

Depending on a child's age and the nature of the alleged offense, the child may be transferred to the court of general jurisdiction and prosecuted under the general law.

#### Key Points:

Section 211.071 RSMo states: If a petition alleges that a child between the ages of twelve and seventeen 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 RSMo, second degree murder under section 565.021, RSMo, first degree assault under section 565.050, RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section 566.060 RSMo, first degree robbery under section 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

Therefore:

- Any child twelve through sixteen whose petition charges them with a felony could be certified, and
- A child of any age charged with
  - First Degree Murder
  - Second Degree Murder
  - First Degree Assault



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- Forcible Rape
- Forcible Sodomy
- First Degree Robbery
- Distribution of Drugs, or
- If a child has committed two or more prior unrelated offenses which would be felonies if committed by an adult could be certified.

The actual decision about whether or not a youth is certified is made by the juvenile/family court after a hearing.

- The juvenile/family court, at its discretion, can dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

Section 211.071.7 states: If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

- Findings showing that the court had jurisdiction of the cause and of the parties;
- Findings showing that the child was represented by counsel;
- Findings showing that the hearing was held in the presence of the child and his counsel; and
- Findings showing the reasons underlying the court's decision to transfer jurisdiction.

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

Section 211.071.8 states: If a juvenile is certified as an adult and charges are filed in circuit court, it does not matter if those charges are later dismissed.

- The juvenile is still considered an adult if he or she commits a new and different offense, since the child has never been found not guilty of the offense giving rise to the adult certification. See *State v. Davis*, 988 S.W.2d 68 (Mo. App 1997).
- On the other hand, if a juvenile is certified as an adult, but no charges relating to the certification are ever filed in circuit court, the juvenile court may regain jurisdiction for future offenses. (See *State v. K.J.*, WD60655, February 18, 2003.)

### Certification

A written report must be prepared and presented at the certification hearing.

#### Key Points:

As stated in 211.071.6: A written report shall be prepared in accordance with this chapter developing fully all available information relevant to the criteria which shall be considered by the court in determining:

- Whether the child is a proper subject to be dealt with under the provisions of this chapter, AND
- Whether there are reasonable prospects of rehabilitation within the juvenile justice system.

These criteria shall include but not be limited to:

- The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;
- Whether the offense alleged involved viciousness, force and violence;
- Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;
- Whether the offense alleged is a part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation under the juvenile code;
- The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;
- The sophistication and maturity of the child as determined by consideration of his home and environmental situation, emotional condition and pattern of living;
- The age of the child;

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- The program and facilities available to the juvenile court in considering disposition;
- Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and
- Racial disparity in certification.

### Certification

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

#### Key Points:

- (Source: Section 211.071.9 RSMo.)

Section 211.071.10 states: If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.

If the juvenile makes bond on the charge for which he has been certified and commits a new offense, It would be important for a law enforcement agency to be in contact with the local juvenile/family court and prosecuting attorneys office to know at what stage the juvenile is in the court process.

If the court does not dismiss the petition to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.11, RSMo.

Note: At the certification hearing the object is not to determine if the juvenile committed the offense with which he or she is charged (for example, Second Degree Murder), as this would constitute double jeopardy. In *Breed vs. Jones*, 421 U.S. 519 (1975) the U.S. Supreme Court ruled that the double jeopardy clause of the Fifth Amendment of the U.S. Constitution extends to juveniles. No person is to be subject to the same offense, to be twice put in jeopardy of life or limb. This prevents a second prosecution for the same offense. Juveniles

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therefore cannot be tried in juvenile court and then transferred to an adult court for a similar action. Instead, the juvenile court rules on whether or not there are reasonable prospects of rehabilitation within the juvenile justice system.

- (Source: Juvenile Delinquency Theory, Practice, and Law, 7th Edition by Larry Siegel and Joseph Senna copyright 2000 by Wadsworth, a division of Thomson Learning ISBN 0-534-55728-7, p. 534-535.)

### Certification

The only time the prosecuting attorneys office is involved in the prosecution of juvenile status or law violations is when a certification hearing is going to be held.

#### Key Points:

As stated in section 211.071.5 RSMo: The juvenile officer may consult with the office of prosecuting attorney concerning any offense for which the child could be certified as an adult under this section.

- The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all other records or reports relating to the offense alleged to have been committed by the child.
- The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031.

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

In other matters, the juvenile/family court handles the “prosecution” or filing of petitions and motions to modify themselves.

- Larger jurisdictions have attorneys on staff.
- Smaller juvenile/family courts often contract for the services of an attorney or attorneys.

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Of course there is some overlap when, for example, a parent is being charged in adult court with Child Abuse and the child is under the jurisdiction of the juvenile/family court as a victim of child abuse.

### Certification

In specific cases, the court may invoke dual jurisdiction of both the criminal and juvenile codes.

#### Key Points:

Section 211.073 states: The court may, in a case when the offender is under seventeen years of age and has been transferred to a court of general jurisdiction pursuant to section 211.071, and whose prosecution results in a conviction or a plea of guilty, invoke dual jurisdiction of both the criminal and juvenile codes, as set forth in this section.

- The court is authorized to impose a juvenile disposition under this chapter and simultaneously impose an adult criminal sentence, the execution of which shall be suspended pursuant to the provisions of this section.
- Successful completion of the juvenile disposition ordered shall be a condition of the suspended adult criminal sentence.

The court may order an offender into the custody of the division of youth services pursuant to this section if:

- A facility is designed and built by the division of youth services specifically for offenders sentenced pursuant to this section and if the division determines that there is space available, based on design capacity, in the facility; and
- Upon agreement of the division.



### Certification

Even if certified, a person who has not reached his/her sixteenth birthday at the time of the commission of the crime cannot receive the death penalty, regardless of the crime committed.

#### Key Points:

Section 565.020 RSMo states: A person commits the crime of murder in the first degree if he knowingly causes the death of another person after deliberation upon the matter.

- Murder in the first degree is a class A felony, and the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor; except that:
  - If a person has not reached his sixteenth birthday at the time of the commission of the crime, the punishment shall be imprisonment for life without eligibility for probation or parole, or release except by act of the governor.

The Missouri statute is in compliance with the decision made in juvenile death penalty cases in which the U.S. Supreme Court made rulings.

- In *Thompson v. Oklahoma* 487 U.S. 815, 108 S. Ct. 733 (1985) the Court ruled that imposing capital punishment on a juvenile murderer who was fifteen years old at the time of the offense violated the Eighth Amendment's Constitutional prohibition against cruel and unusual punishment.
- In *Sanford v. Kentucky* 492 U.S. 109 S. Ct. 2969 (1989) and *Wilkins v. Missouri* 109 S. Ct. 2969 (1989) the Court concluded that the imposition of the death penalty on a juvenile who committed a crime between the ages of sixteen and eighteen was not unconstitutional and that the Eighth Amendment's cruel and unusual punishment clause did not prohibit capital punishment.

### Participation and Restitution

The court may require a parent or guardian of a child to participate in any activity the court finds is necessary to carry out the purposes of the juvenile code.

#### Key Points:

Section 211.134 RSMo states: The court may require a parent or guardian of a child to participate in any activity the court finds is necessary to carry out the purposes of the juvenile code as stated in section 211.011, including, but not limited to:

- Requiring the parent or guardian to attend counseling sessions; and
- Requiring the parent or guardian to participate in any institutional treatment program, including attendance at the institution where the child resides.

The court may order the parent or guardian to support the child committed for institutionalization by paying the reasonable costs of support, maintenance and treatment of the child that the parent is financially able to pay.

### Participation and Restitution

In some cases the juvenile court may allow the child to:

- Make restitution or reparation
- Complete a term of community service

#### Key Points:

Section 211.083 RSMo states: Whenever an informal adjustment is made under the provisions of section 211.081, the juvenile court may allow the child:

- To make restitution or reparation for the damage or loss caused by his offense.
  - Any restitution or reparation shall be reasonable in view of the child's ability to make payment or perform the reparation.
  - The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment agreed upon;
- To complete a term of community service under the supervision of the court or an organization selected by the court.
- (Source: Section 211.083.1(1)(2), RSMo.)

### Participation and Restitution

The court may order a child to work for a period of time necessary to make such restitution for the damage or loss caused by his offense.

#### Key Points:

Section 211.085 RSMo states: The court may order a child, who has been adjudicated for a nonviolent crime and who is age fourteen or older, to work for any employer at a rate of compensation not to exceed minimum wage, for a period of time necessary to make such restitution for the damage or loss caused by his offense.

- A child, age fourteen or older, who is ordered by the juvenile court to make restitution for the damage or loss caused by his offense pursuant to subsection 1 of this section shall not be considered an employee as defined in section 290.500, RSMo.

### Participation and Restitution

A judgment of restitution ordered pursuant to this section against a child and his parents shall not exceed four thousand dollars.

#### Key Points:

Section 211.185 RSMo states: A judgment of restitution ordered pursuant to this section against a child and his parents shall not be a bar to a proceeding against the child and his parents pursuant to section 537.045, RSMo, or section 8.150, RSMo, for the balance of the damages not paid pursuant to this section.

- In no event, however, may the total restitution paid by the child and his parents pursuant to this section, section 8.150, RSMo, and section 537.045, RSMo, exceed four thousand dollars.
- (Source: Section 211.185.9 RSMo.)

Section 537.045 RSMo states: The parent or guardian, excluding foster parents, of any unemancipated minor, under eighteen years of age, in their care and custody, against whom judgment has been rendered for purposely marking upon, defacing or in any way damaging any property, shall be liable for the payment of that judgment up to an amount not to exceed two thousand dollars, provided that the parent or guardian has been joined as a party defendant in the original action.

- The judgment provided in this subsection to be paid shall be paid to the owner of the property damaged, but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor for such damage for the balance of the judgment not paid by the parent or guardian.

The parent or guardian, excluding foster parents, of any unemancipated minor, under eighteen years of age, in their care and custody, against whom judgment

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has been rendered for purposely causing personal injury to any individual, shall be liable for the payment for that judgment up to an amount not to exceed two thousand dollars, provided that the parent or guardian has been joined as a party defendant in the original action.

- The judgment provided in this subsection to be paid shall be paid to the person injured, but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor for such damage for the balance of the judgment not paid by the parent or guardian.

### Participation and Restitution

The juvenile officer is authorized at any time to provide information to or discuss matters concerning the child, the violation of law or the case with appropriate parties.

#### Key Points:

The juvenile officer is authorized at any time to provide information to or discuss matters concerning the child, the violation of law or the case with:

- The victim
- Witnesses
- Officials at the child's school
- Law enforcement officials
- Prosecuting attorneys
- Any person or agency having or proposed to have legal or actual care, custody or control of the child, or any person or agency providing or proposed to provide treatment of the child.

Information received pursuant to this paragraph shall not be released to the general public, but shall be released only to the persons or agencies listed in this paragraph.

- (Source: Section 211.321.2(1)(a), RSMo.)

Nothing in this section shall be construed to prevent the release of general information regarding the informal adjustment or formal adjudication of the disposition of a child's case to a victim or a member of the immediate family of a victim of any offense committed by the child.

- Such general information shall not be specific as to location and duration of treatment or detention or as to any terms of supervision.
- (Source: Section 211.321.6, RSMo.)

### Missouri “Safe Schools Act”

The “Safe Schools Act” has a variety of implications for law enforcement officers.

#### Key Points:

Many statutes changed under the “Safe Schools Act.” Listed below is an index of the various topics. We will review some of the sections that most directly impact law enforcement. SAFE SCHOOLS ACT (HB 1301 & 1298).

- Affidavit required for admission 167.023
- Alternative education 167.164
- Contract services 167.164
- Grants 167.335
- Joint applications 167.335
- Qualifications 167.335
- Voucher 167.164
- Assault while on school property 565.075
- Controlled substances, distribution 195.214
- Disciplinary records, expungement 167.026
- Discipline 160.261
- False bomb report 575.090
- Felony violation, grounds for suspension 167.161
- Headstart buses 304.076
- Hearing, suspension or expulsion 167.161
- Homeless child, define 167.020
- Immunization 167.181
- Juvenile officer, report to 167.115
- Lifesaving training, CPR 167.624
- Medication, self-administered 167.627
- Motivated student program 170.260



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- Records request, provided, penalty 167.020
- Registration requirements 167.020
- Reporting requirements 160.261
- Residency 167.020
- Restitution, court may order work for 211.188
- School employees, report to 167.117
- School uniforms 167.029
- State Board may modify or waive rules 161.210
- State Board to establish rules 167.020
- Street gang activities 161.650
- Superintendent, report to 167.115
- Suspension or expulsion, report to 167.115, 167.161
- Summary 167.171

The two sections that most directly impact law enforcement include:

### 1. Assault While on School Property

- Section 565.075 RSMo, states: A person commits the crime of assault while on school property if the person:
  - Knowingly causes physical injury to another person; or
  - With criminal negligence, causes physical injury to another person by means of a deadly weapon; or
  - Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;and the act described under subdivision (1), (2) or (3) of this subsection occurred on school or school district property, or in a vehicle that at the time of the act was in the service of a school or school district, or arose as a result of a school or school district-sponsored activity.
- Assault while on school property is a class D felony.

### 2. Controlled Substances, Distribution

- Section 195.214 RSMo, states: A person commits the offense of distribution of a controlled substance near schools if such person violates section 195.211 by unlawfully distributing or delivering any controlled substance to a person in or on, or within two thousand feet of, the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private junior college, college or university or on any school bus.
- Distribution of a controlled substance near schools is a class A felony.

The “Safe Schools Act” requires school administrators to report acts of school violence to teachers and other school district employees with a need to know.

- Section 160.261.2 RSMo states: The policy requires school administrators to report acts of school violence to teachers and other school district employees with a need to know.

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- For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties.
- As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities.
- The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties.
- The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

The "Safe Schools Act" also requires school administrators to report acts of school violence to the appropriate law enforcement agency.

- Section 160.261.2 RSMo states: The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies or any act which if committed by an adult would be one of the following felonies:
  - First degree murder under section 565.020, RSMo;
  - Second degree murder under section 565.021, RSMo;
  - Kidnapping under section 565.110, RSMo;
  - First degree assault under section 565.050, RSMo;
  - Forcible rape under section 566.030, RSMo;
  - Forcible sodomy under section 566.060, RSMo;
  - Burglary in the first degree under section 569.160, RSMo;
  - Burglary in the second degree under section 569.170, RSMo;
  - Robbery in the first degree under section 569.020, RSMo;
  - Distribution of drugs under section 195.211, RSMo;
  - Distribution of drugs to a minor under section 195.212, RSMo;
  - Arson in the first degree under section 569.040, RSMo;
  - Voluntary manslaughter under section 565.023, RSMo;
  - Involuntary manslaughter under section 565.024, RSMo;
  - Second degree assault under section 565.060, RSMo;
  - Sexual assault under section 566.040, RSMo;
  - Felonious restraint under section 565.120, RSMo;
  - Property damage in the first degree under section 569.100, RSMo;
  - The possession of a weapon under chapter 571, RSMo;

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- Child molestation in the first degree pursuant to section 566.067, RSMo;
  - Deviate sexual assault pursuant to section 566.070, RSMo;
  - Sexual misconduct involving a child pursuant to section 566.083, RSMo;
  - Sexual abuse pursuant to section 566.100, RSMo;
- committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities.

Law enforcement and juvenile court officers are required to inform the school superintendent about certain violations.

- Section 167.115, RSMo states: Notwithstanding any provision of chapter 211, RSMo, or chapter 610, RSMo, to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031, RSMo, alleging that the pupil has committed one of the felonies just listed.
  - The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition.
    - If the report is made orally, written notice shall follow in a timely manner.
  - The notification shall include a complete description of the conduct the pupil is alleged to have committed and the dates the conduct occurred but shall not include the name of any victim.
- Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.
  - The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties.
- Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school.
  - This information shall not be used as the sole basis for not providing educational services to a public school pupil.

The school superintendent is also required to inform juvenile officials about certain occurrences.

- Section 167.115, RSMo states: The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.
- (Source: Section 167.115.4, RSMo.)

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A variety of information may be considered by the school board during a hearing to suspend or expel a student.

- Section 167.161, RSMo states: The school board of any district, after notice to parents or others having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils.
- In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil.
  - Prior disciplinary actions shall not be used as the sole basis for removal, suspension or expulsion of a pupil.
  - Removal of any pupil who is a student with a disability is subject to state and federal procedural rights.
- At the hearing upon any such removal, suspension or expulsion, the board shall consider the evidence and statements that the parties present and may consider:
  - Records of past disciplinary actions,
  - Criminal court records or juvenile court records consistent with other provisions of the law, or
  - The actions of the pupil which would constitute a criminal offense.
- The school board of any district, after notice to parents or others having custodial care and a hearing upon the matter, may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law.
  - At a hearing required by this subsection, the board shall consider statements that the parties present.
  - The board may provide for the procedure and conduct of such hearings.

### Compulsory School Attendance

Every parent, guardian or other person in this state having charge, control or custody of a child between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction.

#### Key Points:

- Section 167.031 RSMo

Section 167.061 RSMo, states: Any parent, guardian or other person having charge, control or custody of a child, who violates the provisions of section 167.031 is guilty of a class C misdemeanor.

- Upon conviction and pending any judicial appeal, the defendant shall be required to enroll the child in a public, private, parochial, parish or home school within three public school days, after which each successive school day shall constitute a separate violation of section 167.031.

The fine or imprisonment, or both, may be suspended and finally remitted by the court, with or without the payment of costs, at the discretion of the court, if the child is immediately placed and kept in regular attendance at a public, private, parochial, parish or home school and if the fact of regular attendance is proved subsequently to the satisfaction of the court.

- A certificate stating that the child is regularly attending a public, private, parochial or parish school and properly attested by the superintendent, principal or person in charge of the school is prima facie evidence of regular attendance by the child.

### Corporal Punishment in Schools

Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210 RSMo.

#### Key Points:

Section 160.261.8 RSMo, states: Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo.

- The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any certificated school personnel pursuant to a written policy of discipline established by the board of education of the school district.

If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred.

- The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee.

### Juvenile Sex Offenders

Juvenile sex offenders shall be required to comply with registration requirements.

#### Key Points:

Chapter 211.425 RSMo states: Any person who has been adjudicated a delinquent by a juvenile court for committing or attempting to commit a sex-related offense which if committed by an adult would be considered a felony offense pursuant to chapter 566, RSMo, including, but not limited to, rape, forcible sodomy, child molestation and sexual abuse, shall be considered a juvenile sex offender and shall be required to register as a juvenile sex offender by complying with the registration requirements provided for in this section.

- This requirement shall also apply to any person who is or has been adjudicated a juvenile delinquent in any other state or federal jurisdiction for committing or attempting to commit offenses which would be proscribed herein.

Any state agency having supervision over a juvenile required to register as a juvenile sex offender or any court having jurisdiction over a juvenile required to register as a juvenile sex offender, or any person required to register as a juvenile sex offender, shall, within ten days of the juvenile offender moving into any county of this state, register with the juvenile office of the county.

- If such juvenile offender changes residence or address, the state agency, court or person shall inform the juvenile office within ten days of the new residence or address and shall also be required to register with the juvenile office of any new county of residence.

## Juvenile Justice and Procedures

Registration shall be accomplished by completing a registration form similar to the form provided for in section 589.407, RSMo. Such form shall include, but is not limited to, the following:

- A statement in writing signed by the juvenile, giving the juvenile's name, address, Social Security number, phone number, school in which enrolled, place of employment, offense which requires registration, including the date, place, and a brief description of such offense, date and place of adjudication regarding such offense, and age and gender of the victim at the time of the offense; and
- The fingerprints and a photograph of the juvenile.

Juvenile offices shall maintain the registration forms of those juvenile offenders in their jurisdictions.

- Chapter 211.425 RSMo states: Juvenile offices shall maintain the registration forms of those juvenile offenders in their jurisdictions who register as required by this section.
  - Information contained on the registration forms shall be kept confidential and may be released by juvenile offices to only those persons and agencies who are authorized to receive information from juvenile court records as provided by law, including, but not limited to, those specified in section 211.321.

State agencies having custody of juveniles who fall within the registration requirements of this section shall notify the appropriate juvenile offices when such juvenile offenders are being transferred to a location falling within the jurisdiction of such juvenile offices.

- Chapter 211.425 RSMo states: Any juvenile who is required to register pursuant to this section but fails to do so or who provides false information on the registration form is subject to disposition pursuant to this chapter.
  - Any person seventeen years of age or over who commits such violation is guilty of a class A misdemeanor as provided for in section 211.431.

Any juvenile to whom the registration requirement of this section applies shall be informed by the official in charge of the juvenile's custody, upon the juvenile's discharge or release from such custody, of the requirement to register pursuant to this section.

- Such official shall obtain the address where such juvenile expects to register upon being discharged or released and shall report the juvenile's name and address to the juvenile office where the juvenile will be required to register.
- This requirement to register upon discharge or release from custody does not apply in situations where the juvenile is temporarily released under guard or direct supervision from a detention facility or similar custodial facility.

The requirement to register as a juvenile sex offender shall terminate upon the juvenile offender reaching age twenty-one, unless such juvenile offender is required to register as an adult offender pursuant to section 589.400, RSMo.



### Formal vs. Informal Supervision

Juveniles adjudicated by Juvenile or Family Court can be placed under either formal or informal supervision.

#### Key Points:

Formal supervision means a youth has been charged in a Petition with a status or law violation, appeared in Juvenile or Family Court and received probation supervision.

- This supervision is usually open ended in length rather than for a set time and could continue until the youth reaches the age of 21 as previously described.

Informal adjustment includes the giving of counsel and advice to the juvenile and the juvenile's custodian and may include supervision by the juvenile officer and the temporary placement of the juvenile with persons other than the custodians.

- Section 113.01 Supreme Court of Missouri Rules of Practice and Procedures in Juvenile Court states: Informal adjustment shall include the giving of counsel and advise to the juvenile and the juvenile's custodian by the juvenile officer and other appropriate persons and may include, with the consent of the juvenile if fourteen years of age or older and with the consent of the custodian, supervision by the juvenile officer and the temporary placement of the juvenile with persons other than the custodians in a manner consistent with section 453.110.2, RSMo.
  - Referrals may be made to public and private agencies that may provide beneficial guidance or services to the juvenile and the juvenile's custodian.
- Section 113.02 Supreme Court of Missouri Rules of Practice and Procedures in Juvenile Court states: When it is determined to make an informal adjustment, the juvenile officer shall request the juvenile and the juvenile's custodian, by letter, telephone or otherwise, to attend a conference at a designated date, time and place.

## Juvenile Justice and Procedures

- At the time the request to attend the conference is made, the juvenile and the juvenile's custodian shall be informed that attendance at the conference is voluntary and that they may be represented by counsel at the conference.
- Section 113.03 Supreme Court of Missouri Rules of Practice and Procedures in Juvenile Court states: If the juvenile and the juvenile's custodian appear at the informal adjustment conference without counsel, the juvenile officer shall inform them at the commencement of the conference of the right to counsel under Rule 116.01 and the right of the juvenile to remain silent.
  - If either the juvenile or the custodian indicates a desire to be represented by counsel after being informed under Rule 113.03b, the juvenile officer shall adjourn the conference to afford opportunity to secure counsel.

Informal adjustment conferences proceed substantially in a pre-described manner.

- Section 113.03 Supreme Court of Missouri Rules of Practice and Procedures in Juvenile Court states that the informal adjustment conference shall proceed substantially in the following manner: The juvenile officer shall inform the juvenile and the juvenile's custodian:
  - That information has been received concerning the juvenile that appears to establish the jurisdiction of the court to act under the Juvenile Code;
  - That the juvenile officer intends to discuss with them:
    - recommendations for action or conduct in the interests of the juvenile to correct the conditions of behavior or environment that may exist;
    - continuing conferences and contacts with the juvenile and the custodian by the juvenile officer or other authorizing persons; and
    - the juvenile's general behavior, home and school environment, and other facts bearing upon the proposed informal adjustment;
  - That during the informal adjustment process no petition will be filed;
  - That the informal adjustment process is voluntary with the juvenile and the custodian and that they may withdraw from informal adjustment at any time;
  - That if the juvenile or the custodian denies that the court has jurisdiction to act under the Juvenile Code, or wishes the facts to be determined by the court at a hearing, no further efforts will be made to arrive at informal adjustment; and
  - That the juvenile officer may terminate the effort at informal adjustment at any time and thereupon may dismiss the juvenile without further proceedings or may file a petition in the court.
- Note: The provisions of Rule 113.03b are intended to be advisory in nature and may be used as guidelines in conducting the informal adjustment interview. Modifications of these procedures to meet differing circumstances are not prohibited. Following the initial conference, subsequent conferences may be scheduled by the juvenile officer during the informal adjustment process.

## Juvenile Justice and Procedures

The juvenile officer has the power to terminate the informal adjustment process.

- Section 113.04 Supreme Court of Missouri Rules of Practice and Procedures in Juvenile Court states: The juvenile officer may either terminate the informal adjustment process and dismiss the juvenile without further proceedings or terminate the informal adjustment process and file a petition in the court if at any time:
  - It appears that the juvenile and the juvenile's custodian have received the maximum benefit from the informal adjustment process;
  - The juvenile or the juvenile's custodian declines to participate further in the informal adjustment process;
  - The juvenile or the juvenile's custodian denies the jurisdiction of the court to act under the Juvenile Code;
  - The juvenile or the juvenile's custodian expresses a desire that the facts be determined by the court;
  - The juvenile or the juvenile's custodian fails without reasonable excuse to attend scheduled conferences;
  - The juvenile or the juvenile's custodian appears unable or unwilling to benefit from the informal adjustment process;
  - The juvenile officer becomes apprised of new or additional information that makes it appear that further efforts at informal adjustment would not be in the best interests of the juvenile or of society; or
  - Other sufficient reasons exist for terminating the informal adjustment process.
- The informal adjustment process shall not continue beyond a period of six months from its commencement unless extended by the court for an additional period not to exceed six months by an order entered prior to the expiration of the original six-month period.
- Upon termination of the informal adjustment process and dismissal of the juvenile without further proceedings, the juvenile officer shall notify the juvenile and the juvenile's custodian thereof and report such action to the court.

### Out-State Juveniles

If the youth from another state comes into the State of Missouri and commits an offense, he/she is treated like a Missouri youth.

#### Key Points:

However, if a youth is apprehended in Missouri on a capias from another state, the youth must be treated as he/she would be in his or her home state.

- For example, a 17 year old person committing a burglary in Missouri is charged as an adult.
- If a youth has left the state of Alabama and is wanted on a capias there for a burglary he committed there at age 17 and is apprehended in Missouri, he needs to be processed as a juvenile.
  - The reason for this is that in Alabama a person is considered a juvenile until age 18.

You can check on the ages in the various states in the Missouri Law Enforcement Guidelines on Juvenile Issues.

- However, because this information changes, a call to the State issuing the capias is a good idea.

### Bond for Juveniles

Missouri has no provisions for juveniles to make bond from juvenile detention centers.

#### Key Points:

However, many circuits utilize in-home detention and electronic monitoring.