

SECOND REGULAR SESSION

HOUSE BILL NO. 1538

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DIXON (Sponsor), HARRIS (110), BOUGH, WOOD, MORRIS,
ROARK, SELBY AND DOUGHERTY (Co-sponsors).

Read 1st time February 19, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4239L.011

AN ACT

To repeal section 211.321, RSMo, and to enact in lieu thereof one new section relating to juvenile court records.

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

Section A. Section 211.321, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.321, to read as follows:

211.321. 1. Juvenile court proceedings on the formal calendar and preliminary hearings shall be open to the public. The court, on motion of a party or a victim, may close the proceedings to the public during the testimony of a child or during the testimony of the victim to protect the welfare of either person. In making such a determination, the court shall consider the nature of the proceedings, the age and maturity of the witness, and the preference of the witness, and the preference of the parent if the witness is a child, that the proceedings be open or closed.

2. A record of the proceedings on the formal calendar shall be made and preserved by stenographic recording or by mechanical or electronic recording as provided by law or court rule. A record of other hearings may be made and preserved by a written memorandum executed by the judge setting forth findings and procedures followed.

3. Records of the juvenile court other than confidential files shall be open to the general public. Only persons who are found by the court to have a legitimate interest shall be allowed access to the confidential files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of the minor.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

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

21 2. In all proceedings under subdivisions (1) and (2) of
22 subsection 1 of section 211.031, the records of the juvenile court as
23 well as all information obtained and social records prepared in the
24 discharge of official duty for the court shall be kept confidential and
25 shall be open to inspection only by order of the judge of the juvenile
26 court or as otherwise provided by statute. In all proceedings under
27 subdivision (3) of subsection 1 of section 211.031 the records of the
28 juvenile court as well as all information obtained and social records
29 prepared in the discharge of official duty for the court shall be kept
30 confidential and may be open to inspection without court order only
31 as follows:

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

33 (a) To provide information to or discuss matters concerning
34 the child, the violation of law or the case with the victim, witnesses,
35 officials at the child's school, law enforcement officials, prosecuting
36 attorneys, any person or agency having or proposed to have legal or
37 actual care, custody or control of the child, or any person or agency
38 providing or proposed to provide treatment of the child. Information
39 received pursuant to this paragraph shall not be released to the general
40 public, but shall be released only to the persons or agencies listed in
41 this paragraph;

42 (b) To make public information concerning the offense, the
43 substance of the petition, the status of proceedings in the juvenile
44 court and any other information which does not specifically identify

44 the child or the child's family;

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

55 (3) As otherwise provided by statute;

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

58 3. Peace officers' records, if any are kept, of children shall be
59 kept separate from the records of persons seventeen years of age or
60 over and shall not be open to inspection or their contents disclosed,
61 except by order of the court. This subsection does not apply to
62 children who are transferred to courts of general jurisdiction as
63 provided by section 211.071 or to juveniles convicted under the
64 provisions of sections 578.421 to 578.437, RSMo. This subsection
65 does not apply to the inspection or disclosure of the contents of the
66 records of peace officers for the purpose of pursuing a civil forfeiture
67 action pursuant to the provisions of section 195.140, RSMo.

68 4. Nothing in this section shall be construed to prevent the
69 release of information and data to persons or organizations authorized
70 by law to compile statistics relating to juveniles. The court shall
71 adopt procedures to protect the confidentiality of children's names
72 and identities.

73 5. The court may, either on its own motion or upon
74 application by the child or his representative, or upon application by
75 the juvenile officer, enter an order to destroy all social histories,
76 records, and information, other than the official court file, and may
77 enter an order to seal the official court file, as well as all peace
78 officers' records, at any time after the child has reached his
79 seventeenth birthday if the court finds that it is in the best interest of
80 the child that such action or any part thereof be taken, unless the
81 jurisdiction of the court is continued beyond the child's seventeenth
82 birthday, in which event such action or any part thereof may be taken
83 by the court at any time after the closing of the child's case.

84 6. Nothing in this section shall be construed to prevent the
85 release of general information regarding the informal adjustment or
86 formal adjudication of the disposition of a child's case to a victim or

87 a member of the immediate family of a victim of any offense
88 committed by the child. Such general information shall not be
89 specific as to location and duration of treatment or detention or as to
90 any terms of supervision.

91 7. Records of juvenile court proceedings as well as all
92 information obtained and social records prepared in the discharge of
93 official duty for the court shall be disclosed to the child fatality
94 review panel reviewing the child's death pursuant to section 210.192,
95 RSMo, unless the juvenile court on its own motion, or upon
96 application by the juvenile officer, enters an order to seal the records
97 of the victim child.]