

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 397, Page 1, Section A, Line 3, by
2 inserting immediately after said line the following:

3 "211.211. 1. A child is entitled to be represented by counsel in all proceedings under subdivision
4 (2) or (3) of subsection 1 of section 211.031 and by a guardian ad litem in all proceedings under
5 subdivision (1) of subsection 1 of section 211.031.

6 2. The court shall appoint counsel for a child prior to the filing of a petition if a request is
7 made therefor to the court and the court finds that the child is the subject of a juvenile court
8 proceeding and that the child making the request is indigent.

9 3. (1) When a petition has been filed under subdivision (2) or (3) of subsection 1 of section
10 211.031, the court shall appoint counsel for the child except if private counsel has entered his or her
11 appearance on behalf of the child or if counsel has been waived in accordance with law; except that,
12 counsel shall not be waived for any proceeding specified under subsection 10 of this section.

13 (2) If a child waives his or her right to counsel, such waiver shall be made in open court and
14 be recorded and in writing and shall be made knowingly, intelligently, and voluntarily. In
15 determining whether a child has knowingly, intelligently, and voluntarily waived his or her right to
16 counsel, the court shall look to the totality of the circumstances including, but not limited to, the
17 child's age, intelligence, background, and experience generally and in the court system specifically;
18 the child's emotional stability; and the complexity of the proceedings.

19 4. When a petition has been filed and the child's custodian appears before the court without
20 counsel, the court shall appoint counsel for the custodian if it finds:

21 (1) That the custodian is indigent; and

22 (2) That the custodian desires the appointment of counsel; and

23 (3) That a full and fair hearing requires appointment of counsel for the custodian.

24 5. Counsel shall be allowed a reasonable time in which to prepare to represent his client.

25 6. Counsel shall serve for all stages of the proceedings, including appeal, unless relieved by
26 the court for good cause shown. If no appeal is taken, services of counsel are terminated following
27 the entry of an order of disposition.

28 7. The child and his custodian may be represented by the same counsel except where a
29 conflict of interest exists. Where it appears to the court that a conflict exists, it shall order that the
30 child and his custodian be represented by separate counsel, and it shall appoint counsel if required
31 by subsection 3 or 4 of this section.

32 8. When a petition has been filed, a child may waive his or her right to counsel only with the
33 approval of the court and if such waiver is not prohibited under subsection 10 of this section. If a
34 child waives his or her right to counsel for any proceeding except proceedings under subsection 10
35 of this section, the waiver shall only apply to that proceeding. In any subsequent proceeding, the
36 child shall be informed of his or her right to counsel.

Action Taken _____ Date _____

1 9. Waiver of counsel by a child may be withdrawn at any stage of the proceeding, in which
2 event the court shall appoint counsel for the child if required by subsection 3 of this section.

3 10. A child's right to be represented by counsel shall not be waived in any of the following
4 proceedings:

5 (1) At a detention hearing under Missouri supreme court rule 127.08;

6 (2) At a certification hearing under section 211.071 or a dismissal hearing under Missouri
7 supreme court rule 129.04;

8 (3) At an adjudication hearing under Missouri supreme court rule 128.02 for any
9 misdemeanor or felony offense, including the acceptance of an admission;

10 (4) At a dispositional hearing under Missouri supreme court rule 128.03; or

11 (5) At a hearing on a motion to modify or revoke supervision under subdivision (2) or (3) of
12 subsection 1 of section 211.031.

13 11. Under no circumstances shall a child waive his or her rights under section 211.059 and
14 be questioned by police."; and

15
16 Further amend said bill by amending the title, enacting clause, and intersectional references
17 accordingly.