

SECOND REGULAR SESSION

# HOUSE BILL NO. 1747

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES KELLY (27) AND CARNAHAN (Co-sponsors).

Read 1<sup>st</sup> time January 31, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4360L.011

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### AN ACT

To repeal section 211.181, RSMo, and to enact in lieu thereof one new section relating to mental health treatment and care of children.

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

Section A. Section 211.181, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.181, to read as follows:

211.181. 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

- 19 (d) The juvenile officer;
- 20 (3) Place the child or person seventeen years of age in a family home;
- 21 (4) Cause the child or person seventeen years of age to be examined and treated by a  
22 physician, psychiatrist or psychologist and when the health or condition of the child or person  
23 seventeen years of age requires it, cause the child or person seventeen years of age to be placed  
24 in a public or private hospital, clinic or institution for treatment and care; except that, nothing  
25 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment  
26 of a child or person seventeen years of age whose parents or guardian in good faith are providing  
27 other remedial treatment recognized or permitted under the laws of this state;
- 28 **(5) If a parent, guardian, or custodian is unable to provide appropriate mental**  
29 **health treatment or care and the court orders the provision of such treatment and care**  
30 **pursuant to subdivision (4) of this subsection, the court shall not transfer legal custody of**  
31 **the child for the purpose of obtaining special treatment or care solely because the parent,**  
32 **guardian, or custodian is unable to provide such treatment or care. The court shall order**  
33 **that the child receive the necessary specialized services in the least restrictive appropriate**  
34 **environment and shall have jurisdiction over the applicable education, health, mental**  
35 **health, and social service agencies providing such treatment and care.**
- 36 2. When a child is found by the court to come within the provisions of subdivision (2)  
37 of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact  
38 upon which it exercises its jurisdiction over the child, the court may, by order duly entered,  
39 proceed as follows:
- 40 (1) Place the child under supervision in his own home or in custody of a relative or other  
41 suitable person after the court or a public agency or institution designated by the court conducts  
42 an investigation of the home, relative or person and finds such home, relative or person to be  
43 suitable and upon such conditions as the court may require;
- 44 (2) Commit the child to the custody of:
- 45 (a) A public agency or institution authorized by law to care for children or place them  
46 in family homes; except that, a child may be committed to the department of social services,  
47 division of youth services, only if he is presently under the court's supervision after an  
48 adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;
- 49 (b) Any other institution or agency which is authorized or licensed by law to care for  
50 children or to place them in family homes;
- 51 (c) An association, school or institution willing to receive it in another state if the  
52 approval of the agency in that state which administers the laws relating to importation of children  
53 into the state has been secured; or
- 54 (d) The juvenile officer;

55 (3) Place the child in a family home;

56 (4) Cause the child to be examined and treated by a physician, psychiatrist or  
57 psychologist and when the health or condition of the child requires it, cause the child to be placed  
58 in a public or private hospital, clinic or institution for treatment and care; except that, nothing  
59 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment  
60 of a child whose parents or guardian in good faith are providing other remedial treatment  
61 recognized or permitted under the laws of this state;

62 (5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.  
63 Execution of any order entered by the court pursuant to this subsection, including a commitment  
64 to any state agency, may be suspended and the child placed on probation subject to such  
65 conditions as the court deems reasonable. After a hearing, probation may be revoked and the  
66 suspended order executed.

67 3. When a child is found by the court to come within the provisions of subdivision (3)  
68 of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon  
69 which it exercises its jurisdiction over the child, and the court may, by order duly entered,  
70 proceed as follows:

71 (1) Place the child under supervision in his own home or in custody of a relative or other  
72 suitable person after the court or a public agency or institution designated by the court conducts  
73 an investigation of the home, relative or person and finds such home, relative or person to be  
74 suitable and upon such conditions as the court may require;

75 (2) Commit the child to the custody of:

76 (a) A public agency or institution authorized by law to care for children or to place them  
77 in family homes;

78 (b) Any other institution or agency which is authorized or licensed by law to care for  
79 children or to place them in family homes;

80 (c) An association, school or institution willing to receive it in another state if the  
81 approval of the agency in that state which administers the laws relating to importation of children  
82 into the state has been secured; or

83 (d) The juvenile officer;

84 (3) Beginning January 1, 1996, the court may make further directions as to placement  
85 with the division of youth services concerning the child's length of stay. The length of stay order  
86 may set forth a minimum review date;

87 (4) Place the child in a family home;

88 (5) Cause the child to be examined and treated by a physician, psychiatrist or  
89 psychologist and when the health or condition of the child requires it, cause the child to be placed  
90 in a public or private hospital, clinic or institution for treatment and care; except that, nothing

91 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment  
92 of a child whose parents or guardian in good faith are providing other remedial treatment  
93 recognized or permitted under the laws of this state;

94 (6) Suspend or revoke a state or local license or authority of a child to operate a motor  
95 vehicle;

96 (7) Order the child to make restitution or reparation for the damage or loss caused by his  
97 offense. In determining the amount or extent of the damage, the court may order the juvenile  
98 officer to prepare a report and may receive other evidence necessary for such determination. The  
99 child and his attorney shall have access to any reports which may be prepared, and shall have the  
100 right to present evidence at any hearing held to ascertain the amount of damages. Any restitution  
101 or reparation ordered shall be reasonable in view of the child's ability to make payment or to  
102 perform the reparation. The court may require the clerk of the circuit court to act as receiving  
103 and disbursing agent for any payment ordered;

104 (8) Order the child to a term of community service under the supervision of the court or  
105 of an organization selected by the court. Every person, organization, and agency, and each  
106 employee thereof, charged with the supervision of a child under this subdivision, or who benefits  
107 from any services performed as a result of an order issued under this subdivision, shall be  
108 immune from any suit by the child ordered to perform services under this subdivision, or any  
109 person deriving a cause of action from such child, if such cause of action arises from the  
110 supervision of the child's performance of services under this subdivision and if such cause of  
111 action does not arise from an intentional tort. A child ordered to perform services under this  
112 subdivision shall not be deemed an employee within the meaning of the provisions of chapter  
113 287, RSMo, nor shall the services of such child be deemed employment within the meaning of  
114 the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a  
115 commitment to any state agency, may be suspended and the child placed on probation subject  
116 to such conditions as the court deems reasonable. After a hearing, probation may be revoked and  
117 the suspended order executed;

118 (9) When a child has been adjudicated to have violated a municipal ordinance or to have  
119 committed an act that would be a misdemeanor if committed by an adult, assess an amount of  
120 up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been  
121 adjudicated to have committed an act that would be a felony if committed by an adult, assess an  
122 amount of up to fifty dollars to be paid by the child to the clerk of the court.

123 4. Beginning January 1, 1996, the court may set forth in the order of commitment the  
124 minimum period during which the child shall remain in the custody of the division of youth  
125 services. No court order shall require a child to remain in the custody of the division of youth  
126 services for a period which exceeds the child's eighteenth birth date except upon petition filed

127 by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any  
128 order of commitment of a child to the custody of the division of youth services, the division shall  
129 determine the appropriate program or placement pursuant to subsection 3 of section 219.021,  
130 RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody  
131 of the division of youth services before the child completes the length of stay determined by the  
132 court in the commitment order unless the committing court orders otherwise. The director of the  
133 division of youth services may at any time petition the court for a review of a child's length of  
134 stay commitment order, and the court may, upon a showing of good cause, order the early  
135 discharge of the child from the custody of the division of youth services. The division may  
136 discharge the child from the division of youth services without a further court order after the  
137 child completes the length of stay determined by the court or may retain the child for any period  
138 after the completion of the length of stay in accordance with the law.

139         5. When an assessment has been imposed under the provisions of subsection 2 or 3 of  
140 this section, the assessment shall be paid to the clerk of the court in the circuit where the  
141 assessment is imposed by court order, to be deposited in a fund established for the sole purpose  
142 of payment of judgments entered against children in accordance with section 211.185.