

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/HS/House Bill No. 432, Page 52, Section 210.1225, Line 12,

2 by inserting after all of said line the following:

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

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

13 3. (1) When a petition has been filed under  
14 subdivision (2) or (3) of subsection 1 of section 211.031,  
15 the court [~~shall~~] may appoint counsel for the child except  
16 if private counsel has entered his or her appearance on  
17 behalf of the child or if counsel has been waived in  
18 accordance with law; except that, counsel shall not be  
19 waived for any proceeding specified under subsection 10 of  
20 this section unless the child has had the opportunity to  
21 meaningfully consult with counsel and the court has  
22 conducted a hearing on the record.

23 (2) If a child waives his or her right to counsel,  
24 such waiver shall be made in open court and be recorded and  
25 in writing and shall be made knowingly, intelligently, and  
26 voluntarily. In determining whether a child has knowingly,

27 intelligently, and voluntarily waived his or her right to  
28 counsel, the court shall look to the totality of the  
29 circumstances including, but not limited to, the child's  
30 age, intelligence, background, and experience generally and  
31 in the court system specifically; the child's emotional  
32 stability; and the complexity of the proceedings.

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

36 (1) That the custodian is indigent; and

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

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

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

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

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

54 8. When a petition has been filed, a child may waive  
55 his or her right to counsel only with the approval of the  
56 court and if such waiver is not prohibited under subsection  
57 10 of this section. If a child waives his or her right to  
58 counsel for any proceeding except proceedings under  
59 subsection 10 of this section, the waiver shall only apply

60 to that proceeding. In any subsequent proceeding, the child  
61 shall be informed of his or her right to counsel.

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

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

68 (1) At any contested detention hearing under Missouri  
69 supreme court rule 127.08 where the petitioner alleges that  
70 the child violated any law that, if committed by an adult,  
71 would be a felony unless an agreement is otherwise reached;

72 (2) At a certification hearing under section 211.071  
73 or a dismissal hearing under Missouri supreme court rule  
74 129.04;

75 (3) At an adjudication hearing under Missouri supreme  
76 court rule 128.02 for any felony offense or at any detention  
77 hearing arising from a misdemeanor or felony motion to  
78 modify or revoke, including the acceptance of an admission;

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

81 (5) At a hearing on a motion to modify or revoke  
82 supervision under subdivision (2) or (3) of subsection 1 of  
83 section 211.031."; and

84 Further amend the title and enacting clause accordingly.