

against the patient's account and, if the charges so paid have previously been billed to a county, reflected in the hospital's next general statement to that county.

Sec. 2. Section two hundred forty-nine A point three (249A.3), subsection two (2), Code 1979, is amended by inserting after paragraph b the following new paragraph, and redesignating the succeeding paragraphs accordingly:

NEW PARAGRAPH. Individuals who are receiving care in an institution for mental diseases, and who are under twenty-one years of age and whose income and resources are such that they are eligible for aid to dependent children under chapter two hundred thirty-nine (239) of the Code, or who are sixty-five years of age or older and who meet the conditions for eligibility in paragraph a of this subsection.

Approved April 30, 1979

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## CHAPTER 56 JUVENILE JUSTICE

S. F. 462

AN ACT relating to juvenile justice provisions of the Code.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section two hundred thirty-two point two (232.2), subsection five (5), paragraph g, Code 1979, is amended to read as follows:

g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing or shelter ~~or~~ and refuses other means made available to provide such essentials.

Sec. 2. Section two hundred thirty-two point eight (232.8), subsection one (1), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

Violations by a child of provisions of chapters 106, 106A, 109, one hundred nine A (109A) of the Code, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, violations of county or municipal curfew or traffic ordinances, and violations by a child of the provisions of section 123.47, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of ~~chapter 123~~ section one hundred twenty-three point forty-seven (123.47) of the Code to the juvenile court when there is reason to believe that the child regularly abuses alcohol and may be in need of treatment.

Sec. 3. Section two hundred thirty-two point eleven (232.11), subsection three (3), Code 1979, is amended by adding the following new paragraph:

NEW PARAGRAPH. The court may appoint counsel to represent the child and reserve the determination of payment until the parent, guardian or custodian has an opportunity to be heard.

Sec. 4. Section two hundred thirty-two point twenty-two (232.22), subsection one (1), paragraph c, Code 1979, is amended to read as follows:

c. There is probable cause to believe that the child has violated conditions of release imposed under section 232.54 and two hundred thirty-two point forty-four (232.44), subsection five (5), paragraph b of the Code and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or

Sec. 5. Section two hundred thirty-two point twenty-eight (232.28), subsections one (1) and two (2), Code 1979, are amended to read as follows:

1. Any person having knowledge of the facts may file a complaint with the court or its designee alleging that a child has committed a delinquent act.

2. The court or its designee shall refer the complaint to an intake officer who shall conduct a preliminary inquiry to determine what action should be taken.

Sec. 6. Section two hundred thirty-two point forty-one (232.41), Code 1979, is amended to read as follows:

232.41 REPORTER REQUIRED. Stenographic notes or mechanical or electronic recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be ~~the same as these~~ reported in the same manner as required in section 624.9.

Sec. 7. Section two hundred thirty-two point forty-two (232.42), Code 1979, is amended to read as follows:

232.42 CONTINUANCES.

1. Continuances in juvenile delinquency proceedings may be granted by the court only for good cause shown on the record if the child is being held in detention.

2. Where the child requests a continuance of proceedings, the court, in an order granting the continuance, may suspend the time limitations imposed on the state by this division for a period of time not to exceed the length of the continuance.

Sec. 8. Section two hundred thirty-two point forty-seven (232.47), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. If the court enters an order adjudicating the child to have committed a delinquent act, the court may issue an order authorizing either shelter care or detention until the dispositional hearing is held.

Sec. 9. Section two hundred thirty-two point fifty-two (232.52), subsection two (2), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

The dispositional orders which the court may enter subject to its continuing jurisdiction are as follows:

Sec. 10. Section two hundred thirty-two point fifty-four (232.54), subsection one (1), Code 1979, is amended to read as follows:

1. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "a", ~~or~~ "b" or "c" and upon the motion of a child, a child's parent or guardian, a child's guardian ad litem, a person supervising

the child under a dispositional order, a county attorney, or upon its own motion, the court may terminate the order and discharge the child, modify the order, or vacate the order and substitute another order pursuant to the provisions of section 232.52. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

Sec. 11. Section two hundred thirty-two point fifty-four (232.54), subsection two (2), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

2. With respect to a dispositional order made pursuant to section 232.52, subsection 2, ~~paragraph paragraphs~~ "d" and "e", the court ~~may~~ shall grant a motion of the person to whom custody has been transferred for termination of the order and discharge of the child, for modification of the order by imposition of less restrictive conditions, or for vacation of the order and substitution of a less restrictive order unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court's own motion.

Sec. 12. Section two hundred thirty-two point fifty-four (232.54), subsection two (2), unnumbered paragraph two (2), Code 1979, is amended by striking the paragraph.\*

Sec. 13. Section two hundred thirty-two point fifty-four (232.54), subsections three (3) and four (4), Code 1979, are amended to read as follows:

3. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs "d", ~~or~~ "e" or "f", the court shall ~~in the absence of objection by the child,~~ grant a motion of a person or agency to whom custody has been transferred for modification of the order by transfer to an equally restrictive placement, unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. ~~if the child objects to the transfer the court may, after notice and hearing, either grant or deny the motion for transfer.~~ Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court's own motion.

4. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs "d", and "e" or "f", the court may, after notice and hearing, either grant or deny a motion of the child, the child's parent or guardian, or the child's guardian ad litem, to terminate the order and discharge the child, to modify the order either by imposing less restrictive conditions or by transfer to an equally or less restrictive placement, or to vacate the order and substitute a less restrictive order. A motion may be made pursuant to this paragraph no more than once every six months.

Sec. 14. Section two hundred thirty-two point sixty-eight (232.68), subsection two (2), paragraph b, Code 1979, is amended to read as follows:

b. The commission of any sexual abuse offense with or to a child as defined by pursuant to chapter 709 or section seven hundred twenty-six point two (726.2) of the Code, as a result of the acts or omissions of the person responsible for the care of the child.

Sec. 15. Section two hundred thirty-two point seventy-nine (232.79), subsection five (5), Code 1979, is amended to read as follows:

5. When there has been an emergency removal or keeping of a child without a court order, a physical examination of the child by a licensed medical practitioner shall be performed within twenty-four hours of such removal, unless the child is returned to his or her home within twenty-four hours of the removal.

Sec. 16. Section two hundred thirty-two point eighty-one (232.81), subsection four (4), Code 1979, is amended to read as follows:

4. A person or agency shall not maintain any records with regard to a complaint filed under ~~this~~ division III of this chapter which is dismissed without the filing of a petition. This subsection does not apply to records maintained pursuant to chapter two hundred thirty-five A (235A) of the Code.

Sec. 17. Section two hundred thirty-two point eighty-nine (232.89), subsection two (2), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

2. Upon the filing of a petition, the court shall appoint counsel and a guardian ad litem for the child identified in the petition as a party to the proceedings. Counsel shall be appointed as follows:

a. If the child is represented by counsel and the court determines there is a conflict of interest between the child and his or her parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child, who shall be compensated pursuant to the provisions of section eighteen (18) of this Act.

b. If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of section eighteen (18) of this Act.

Sec. 18. Section two hundred thirty-two point eighty-nine (232.89), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The court shall determine, after giving the parent, guardian or custodian an opportunity to be heard, whether such person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that such person possesses sufficient financial ability, the court shall then consult with the department of social services, the juvenile probation office or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and his or her parent, guardian or custodian as a result of ordering the parent, guardian or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay such sums as the court finds appropriate in the manner and to whom the court directs. If the person so ordered fails to comply with the order without good reason, the court shall enter judgment against him or her. If impairment is deemed likely or if the court determines that the parent, guardian or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section two hundred thirty-two point one hundred forty-one (232.141), subsection one (1), paragraph d of the Code.

Sec. 19. Section two hundred thirty-two point eighty-nine (232.89), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The same person may serve both as the child's counsel and as guardian ad litem.

Sec. 20. Section two hundred thirty-two point ninety-four (232.94), Code 1979, is amended to read as follows:

232.94 REPORTER REQUIRED. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be ~~the same as these~~ reported in the same manner as required in section 624.9.

Sec. 21. Section two hundred thirty-two point ninety-six (232.96), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from his or her home as set forth in section two hundred thirty-two point ninety-five (232.95), subsection two (2), paragraph a of the Code, pending a final order of disposition.

Sec. 22. Section two hundred thirty-two point one hundred two (232.102), subsection five (5), Code 1979, is amended to read as follows:

5. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court ~~may prescribe--the--type--of placement~~ shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of social services or other agency for placement, the department or agency shall submit to the court a specific plan for placement of the child and shall make every effort to return the child to his or her home as quickly as possible. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian or custodian in order to enable them to resume custody of the child.

Sec. 23. Section two hundred thirty-two point one hundred eleven (232.111), subsections one (1) and two (2), Code 1979, are amended to read as follows:

1. A child's guardian or custodian, the department of social services, a juvenile probation officer or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child ~~as provided in section 232-87.~~

2. The department, probation officer, county attorney or judge may authorize any competent person having knowledge of the circumstances to file a termination petition with the clerk of the court without the payment of a filing fee ~~as provided in section 232-87.~~

Sec. 24. Section two hundred thirty-two point one hundred twelve (232.112), subsection two (2), Code 1979, is amended to read as follows:

2. Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a ~~minor~~ child if the child does not have a guardian or guardian ad litem or if the interests of the guardian or guardian ad litem conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection 1.

Sec. 25. Chapter two hundred thirty-two (232), Code 1979, is amended by adding the following new sections after section two hundred thirty-two point one hundred thirteen (232.113) and renumbering as necessary remaining sections of division four (IV):

NEW SECTION. DUTIES OF COUNTY ATTORNEY. Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

NEW SECTION. REPORTER REQUIRED. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section six hundred twenty-four point nine (624.9) of the Code.

Sec. 26. Section two hundred thirty-two point one hundred forty-one (232.141), subsection four (4), paragraph a, Code 1979, is amended to read as follows:

a. The costs incurred under the provisions of section 232.52 of prior Codes by each county for the fiscal years beginning July 1, ~~1974~~, 1975, and 1976 and 1977 shall be averaged. The average cost for each county shall be that county's base cost for the first fiscal year after July 1, 1979.

Sec. 27. Section two hundred thirty-two point one hundred forty-one (232.141), subsection four (4), paragraph d, Code 1979, is amended to read as follows:

d. Costs incurred under provisions of this section which are not paid by the county under the provisions of paragraphs "a," "b" and "c" shall be paid by the state. The counties shall apply for reimbursement to the department, which shall promulgate rules and forms to carry out the provisions of this paragraph.

Sec. 28. Section two hundred thirty-two point one hundred forty-seven (232.147), subsection two (2), Code 1979, is amended to read as follows:

2. Official juvenile court records in cases alleging delinquency shall be public records, subject to sealing under section 232.150. If the court has excluded the public from a hearing under division two (II) of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter.

Sec. 29. Section two hundred thirty-two point one hundred forty-seven (232.147), subsection three (3), paragraph g, Code 1979, is amended by striking the paragraph.

Sec. 30. Section two hundred thirty-two point one hundred forty-seven (232.147), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. All juvenile court records shall be made available for inspection and their contents shall be disclosed to any party to the case and his or her counsel and to any trial or appellate court in connection with an appeal pursuant to division six (VI) of this chapter.

Sec. 31. Chapter two hundred thirty-two (232), Code 1979, is amended by adding the following new section:

NEW SECTION. APPLICABILITY OF THIS CHAPTER PRIOR TO ITS EFFECTIVE DATE.

1. Except as provided in subsections two (2) and three (3) of this section, this chapter does not apply to juvenile court cases brought prior to July 1, 1979 or to acts committed prior to July 1, 1979 which would otherwise bring a child or his or her parent, guardian or custodian within the jurisdiction of the juvenile court pursuant to this chapter.

2. In a case pending on or commenced after July 1, 1979, involving acts committed prior to July 1, 1979:

a. Upon the request of any party and the approval of the court:

(1) Procedural provisions of this chapter shall apply insofar as they are justly applicable.

(2) The court may order a disposition of the case pursuant to the provisions of this chapter.

3. Provisions of this chapter governing the termination, modification or vacation of a dispositional order shall apply to persons to whom a dispositional order has been issued for acts committed prior to July 1, 1979, except that the maximum length of the order and the severity of the disposition shall not be increased. The provisions of this chapter shall not affect the substantive or procedural validity of a judgment entered before July 1, 1979, regardless of the fact that appeal time has not run or that an appeal is pending.

Sec. 32. Section two hundred thirty-three point five (233.5), Code 1979, is amended to read as follows:

233.5 INTERPRETATIVE CLAUSE. For the purposes of this Act ~~chapter~~ the word "dependency" shall mean all the conditions as enumerated in section 232.2, subsection ~~4~~ five (5) of the Code.

Sec. 33. Section two hundred thirty-two point thirteen (232.13), Code 1979, is repealed.

Approved June 5, 1979