

CHAPTER 1239**JUVENILE CARE, TREATMENT, AND CORRECTIONS***H.F. 2517*

AN ACT relating to the care and treatment of juveniles, youthful offenders, and other persons by establishing certain dispositional requirements concerning the state juvenile institutions and their administration, providing for financing and funding of certain facilities serving juveniles and other persons, establishing a youthful offenders program in the department of corrections, and providing effective dates.

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

Section 1. Section 135H.6, subsection 5, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

5. The department of human services has submitted written approval of the application based on the department of human services' determination of need. The department of human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of human services and an analysis of the applicant's ability to provide services and support consistent with requirements under chapter 232, particularly regarding community-based treatment. If the proposed psychiatric institution is not freestanding from a facility licensed under chapter 135B or 135C, approval under this subsection shall not be given unless the department of human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under chapter 135B or 135C. Unless a psychiatric institution was accredited to provide psychiatric services by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings prior to June 1, 1989, the department of human services shall not approve an application for a license under this chapter until the federal health care financing administration has approved a state Title XIX plan amendment to include coverage of services in a psychiatric medical institution for children. In addition, either of the following conditions must be met:

a. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter to exceed three hundred sixty beds, except as provided in paragraph "b", with not more than three hundred of the beds licensed under chapter 237 before January 1, 1989, and not more than sixty of the beds licensed under chapter 237 on or after January 1, 1989.

b. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter after June 30, 1990, which specialize in providing substance abuse treatment to children to exceed seventy beds.

Sec. 2. Section 135H.6, subsection 6, Code Supplement 1989, is amended to read as follows:

6. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", subparagraph (3), for three years or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under section 237.3, subsection 2, paragraph "a", subparagraph (3).

Sec. 3. Section 217.8, Code 1989, is amended to read as follows:

217.8 DIVISION OF CHILD AND FAMILY SERVICES.

The administrator of the division of child and family services shall be qualified by training, experience and education in the field of welfare and social problems. The administrator ~~shall be entrusted~~ is charged with the administration of programs involving neglected, dependent and delinquent children, child welfare, aid to dependent children, and aid to disabled persons

and shall administer and be in control of the Iowa juvenile home, the state training school, and other related programs established for the general welfare of families, adults and children as directed by the director.

Sec. 4. Section 218.9, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph.

Sec. 5. Section 220.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. There is a need to provide for early intensive intervention on behalf of juveniles which is designed to meet the juveniles' needs and prevent future antisocial and criminal behavior and there is a need in areas of the state to establish facilities providing residential housing or treatment facilities for juveniles requiring a more enhanced level of services than those services currently available in the state's existing foster care system.

Sec. 6. NEW SECTION. 220.155 RESIDENTIAL TREATMENT FACILITIES.

1. The authority may issue its bonds and notes and loan the proceeds of the bonds or notes to a nonprofit corporation for the purpose of financing the acquisition or construction of residential housing or treatment facilities serving juveniles or handicapped or disabled persons.

2. The authority may enter into a loan agreement with a nonprofit corporation for the purpose of financing the acquisition or construction of residential housing or treatment facilities serving juveniles or handicapped or disabled persons and shall provide for payment of the loan and security for the loan as the authority deems advisable.

3. In the resolution authorizing the issuance of the bonds or notes pursuant to this section, the authority may provide that the related principal and interest are limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the nonprofit corporation, and the principal or interest does not constitute an indebtedness of the authority or a charge against the authority's general credit or general fund.

4. The powers granted the authority under this section are in addition to the authority's other powers under this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bond or notes issued pursuant to, and powers granted to the authority under this section, except to the extent the provisions are inconsistent with this section.

Sec. 7. Section 232.52, subsection 2, paragraph e, Code 1989, is amended to read as follows:

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction and custody of the court for the purposes of section 232.54, to the director of the department of human services for purposes of placement in the state training school or other facility provided that the child is at least twelve years of age and the court finds the placement to be in the best interests of the child or necessary for the protection of the public, and that the child has been found to have committed an act which is a forcible felony, as defined in section 702.11, or the court finds any three of the following conditions exist:

(1) The child is at least ~~twelve~~ fifteen years of age; and

*The court finds such placement to be in the best interests of the child or necessary to the protection of the public. The child has committed an act which is a crime against a person and which would be an aggravated misdemeanor or a felony if the act were committed by an adult.

(3) The child has previously been found to have committed a delinquent act.

(4) The child has previously been placed in a treatment facility outside the child's home.

Sec. 8. Section 232.52, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the state training school pursuant to subsection 2, paragraph "e", to a facility which has been designated to be an alternative placement site for the state training school, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a substitute dispositional order under section 232.54.

(2) Immediate removal of the child from the state training school is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "a" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 4.6, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a substitute dispositional order under section 232.54 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

Sec. 9. Section 232.54, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. With respect to a temporary transfer order made pursuant to section 232.52, subsection 8, if the court finds that removal of a child from the state training school is necessary to safeguard the child's physical or emotional health and is in the best interests of the child, the court shall grant the director's motion for a substitute dispositional order to place the child in a facility which has been designated to be an alternative placement site for the state training school.

Sec. 10. Section 232.102, subsection 3, Code 1989, is amended to read as follows:

3. After a dispositional hearing and upon written findings of fact based upon evidence in the record that an alternative placement set forth in subsection 1, paragraph "b" has previously been made and is not appropriate the court may enter an order transferring the guardianship of the court for the purposes of subsection 7, to the ~~commissioner~~ director of human services for the purposes of placement in the Iowa ~~Juvenile Home~~ juvenile home at Toledo.

Sec. 11. Section 232.102, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the Iowa juvenile home at Toledo pursuant to subsection 3, to a facility which has been designated to be an alternative placement site for the juvenile home, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a new dispositional order under section 232.103.

(2) Immediate removal of the child from the juvenile home is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "a" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 4.6, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a new dispositional order under section 232.103 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

Sec. 12. Section 232.103, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. With respect to a temporary transfer order made pursuant to section 232.102, subsection 3A, if the court finds that removal of a child from the Iowa juvenile home is necessary to safeguard the child's physical or emotional health and is in the best interests of the child, the court shall grant the director's motion for a new dispositional order to place the child in a facility which has been designated to be an alternative placement site for the juvenile home.

Sec. 13. Section 232.142, subsection 3, Code 1989, is amended to read as follows:

3. ~~Approved~~ A county or multicounty juvenile homes home approved pursuant to this section shall be entitled to receive financial aid from the state in the amount and in such a manner

as determined approved by the director. Aid paid by the state shall not exceed be at least ten percent and not more than fifty percent of the total cost of the establishment, improvements, operation, and maintenance of such a the home.

Sec. 14. NEW SECTION. 237.14 ENHANCED FOSTER CARE SERVICES.

The department shall provide for enhanced foster care services by establishing supplemental per diem or performance-based contracts which include payment of costs relating to payments of principal and interest for bonds and notes issued pursuant to section 220.155 with facilities licensed under this chapter which provide special services to children who would otherwise be placed in a state juvenile institution or an out-of-state program. Before completion of the department's budget estimate as required by section 8.23, the department shall determine and include in the estimate the amount which should be appropriated for enhanced foster care services for the forthcoming fiscal year in order to provide sufficient services.

Sec. 15. Section 242.1, Code 1989, is amended to read as follows:

242.1 OFFICIAL DESIGNATION.

The training school for juvenile delinquents at Eldora and the unit for delinquent juveniles ~~at the Iowa juvenile home at Toledo~~ shall together be known as the "state training school". For the purpose of this chapter ~~the word "administrator" or "director" shall mean means the administrator of the division of child and family services~~ director of the department of human services.

Sec. 16. Section 242.1, Code 1989, as amended by this Act, is amended by striking the section and inserting in lieu thereof the following:

242.1 OFFICIAL DESIGNATION.

1. Effective January 1, 1992, a diagnosis and evaluation center and other units are established at Eldora to provide to juvenile delinquents a program which focuses upon appropriate developmental skills, treatment, placements, and rehabilitation.

2. The diagnosis and evaluation center which is used to identify appropriate treatment and placement alternatives for juveniles and any other units for juvenile delinquents which are located at Eldora and the unit for juvenile delinquents at Toledo shall together be known as the "state training school". For the purposes of this chapter "director" means the director of human services and "superintendent" means the administrator in charge of the diagnosis and evaluation center for juvenile delinquents and other units at Eldora and the unit for juvenile delinquents at Toledo.

Sec. 17. Section 242.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

242.2 SUPERINTENDENT — POWERS AND DUTIES.

The superintendent has charge and custody of the juveniles committed to the state training school. The superintendent shall administer the state training school and direct the staff in order to provide a positive living experience designed to prepare the juveniles for a productive future.

Sec. 18. Section 242.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

242.4 EDUCATION AND TRAINING.

The state training school shall provide a positive living experience for older juveniles who require secure custody and who live at the state training school for an extended period of time. The education and training programs provided to the juveniles shall reflect the age level and extended period of stay by focusing upon appropriate developmental skills to prepare the juveniles for productive living.

Sec. 19. Section 244.1, subsection 1, Code 1989, is amended to read as follows:

1. "Administrator" or "director" means the ~~administrator of the division of child and family services~~ director of the department of human services.

Sec. 20. Section 244.4, Code 1989, is amended to read as follows:
244.4 PROCEDURE.

The procedure for commitment to ~~said homes shall be the same as the home is as~~ provided by chapter 232.

Sec. 21. STATE JUVENILE INSTITUTIONS — POPULATION GUIDELINES.

The judicial department, in consultation with the department of human services, shall develop population guidelines to indicate the number of children which may be placed at the state training school or the Iowa juvenile home at any one time. Within the population guidelines, the judicial department shall allocate to each judicial district a number of children which may be placed in a juvenile institution from the district. The judicial department shall develop procedures to manage the number of children placed in a juvenile institution within the population guideline established for the institution. The guidelines, allocations, and procedures required by this section shall be implemented on or before January 1, 1991.

Sec. 22. DEVELOPMENT OF CHILDREN'S PROGRAMS IN COMMUNITY SETTINGS AND OTHER CONCERNS RELATING TO JUVENILE JUSTICE.

1. a. The department of human services and the supreme court, in consultation with a planning group consisting of existing providers of services, 4 members of the general assembly equally representing the house and senate and both political parties, attorneys who are experienced in representing juveniles and in juvenile law, and experts in child welfare and juvenile justice, shall develop a plan identifying the types of residential programs which should be developed, either by enhancing reimbursement of foster care services or of psychiatric medical institutions for children, to serve the children who are currently in the following placements: the Iowa juvenile home, out-of-state facilities at high cost to the state, and the state training school when the children could be served in community settings if the proper type of program were available. The recommendations of the juvenile justice advisory committee, established by the legislative council in 1989, regarding the state training school and the Iowa juvenile home shall be considered. In addition, the need to develop specific programs to serve children who are sexual abuse perpetrators, substance abusers, or have a dual diagnosis, and the regions of the states where the specific programs should be located in order to serve children in community settings, shall be identified. The department and the supreme court shall complete the plan involving the items required under this section on or before June 1, 1990.

b. Based upon the plan, the department shall request proposals to develop a total of 120 additional residential placement slots in community settings and the slots shall be available on or before October 1, 1991. The department shall work with the Iowa finance authority and service providers to finance the development of resources for these slots at the lowest possible cost. The requests for proposals shall be issued on or before July 1, 1990.

c. Notwithstanding the provisions of section 135H.6, subsection 5, psychiatric medical institution for children beds developed under this section are not subject to the limit upon the number of beds which may be provided under psychiatric medical institution for children licensure.

2. The planning group established in subsection 1 shall also develop a plan for the state juvenile justice system and related issues and shall perform other tasks when the tasks listed in subsection 1 are completed. The planning group shall conduct a review and develop recommendations regarding certain aspects of the system and perform the tasks designated in this subsection, and report to the governor and to the legislative council as recommendations are developed and tasks are performed and submit a final report no later than December 1, 1991. The plan and planning activities for the state juvenile justice system shall include but are not limited to all of the following:

a. Seeking public-private partnerships to modernize the educational and vocational programs offered at the state juvenile institutions.

b. The study group shall develop potential placement and program criteria for the state juvenile home, based upon the expectation that the home will continue to serve as a coeducational juvenile facility for 90 youth but shall consider that residential treatment program expansions may eliminate the need for placements of children found to be in need of assistance (CHINA) at the home and that the population and population needs may change.

c. Developing a plan for converting the state training school at Eldora, or parts of the facility, to a statewide diagnosis and evaluation center used to identify appropriate treatment and placement alternatives. The plan shall include provisions, including estimated costs, to establish regional secure treatment facilities for youth who require intensive treatment in this type of setting for extended periods of time. The planning group shall consider potential locations for the facilities near areas of the state in which a wide variety of support services, work and training opportunities, and educational program support are available.

Sec. 23. YOUTHFUL OFFENDERS PROGRAM.

1. Effective July 1, 1992, a youthful offenders program is established within the department of corrections to provide for the control, treatment, and rehabilitation of offenders who are 18 to 21 years of age.

2. The department of corrections shall work with a task force which shall include representatives of the supreme court, the department of human services, and the criminal and juvenile justice planning division of the department of human rights to develop a proposal to establish a youthful offenders program within adult corrections which shall be submitted to the general assembly and the governor on or before January 2, 1991. The program shall be targeted to persons who are 18 to 21 years of age and have committed a first offense and youth who turn 18 years of age while under the jurisdiction of the juvenile court by providing aftercare and extended supervision of the youth through age 21. The task force proposal shall provide a comprehensive description of the program, including characteristics of persons to be referred to the program, a survey of existing state institutions to identify facilities which may be converted to house the program, recommended sentencing criteria and options including deferral of sentence, and recommendations relating to the court's ability to place individuals directly in the program.

Sec. 24. EFFECTIVE DATES.

1. Sections 1, 2, 5, 6, 14, and 22 of this Act, being deemed of immediate importance, take effect upon enactment.

2. Section 7 of this Act takes effect October 1, 1991.

3. Section 16 of this Act takes effect January 1, 1992.

Approved May 3, 1990

CHAPTER 1240

PUBLIC RETIREMENT SYSTEMS

H.F. 2543

AN ACT relating to the administration and benefits for certain public retirement systems, and providing effective dates and for the applicability of the Act.

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

Section 1. Section 97A.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:
The board of trustees shall fix and determine by proper rules how much service in any year shall be Service for fewer than six months of a year is not creditable as service. Service of