

## CHAPTER 42

### JUVENILE JUSTICE AND YOUTHFUL OFFENDERS

S.F. 288

**AN ACT** relating to the placement of a juvenile on youthful offender status and the prosecution of a juvenile in juvenile or district court, and access to child abuse records by a juvenile court intake officer.

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

Section 1. Section 232.8, subsection 1, paragraph c, Code 2013, is amended to read as follows:

c. Violations by a child, aged sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph “e” or “f”, or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the district court transfers jurisdiction of the child to the juvenile court upon motion and for good cause pursuant to section 803.6. ~~A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1.~~ Notwithstanding any other provision of the Code to the contrary, the district court may accept from a child in district court a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section paragraph, in the same manner as regarding an adult. The judgment and sentence of a child in district court shall be as provided in section 901.5. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

Sec. 2. Section 232.8, subsection 3, paragraph a, Code 2013, is amended to read as follows:

a. The juvenile court, after a hearing and in accordance with the provisions of section 232.45, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult or youthful offender for such offense in another court. ~~If the child, except a child being prosecuted as a youthful offender, pleads guilty or is found guilty of a public offense other than a class “A” felony in another court of this state, that court may suspend the sentence or, with the consent of the child, defer judgment or sentence and, without regard to restrictions placed upon deferred judgments or sentences for adults, place the child on probation for a period of not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation, a child who receives a deferred judgment shall be discharged without entry of judgment.~~ A child prosecuted as a youthful offender shall be sentenced pursuant to section 907.3A.

Sec. 3. Section 232.28, subsection 3, paragraph b, Code 2013, is amended to read as follows:

b. Check existing records of the court, law enforcement agencies, ~~and~~ public records of other agencies, and child abuse records as provided in section 235A.15, subsection 2, paragraph “e”.

Sec. 4. Section 232.45, subsection 6, unnumbered paragraph 1, Code 2013, is amended to read as follows:

At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense for the purpose of prosecution of the child as an adult if all of the following apply:

Sec. 5. Section 232.45, subsection 7, paragraph a, subparagraph (1), Code 2013, is amended to read as follows:

(1) The child is twelve through fifteen years of age or younger the child is ten or eleven years of age and has been charged with a public offense that would be classified as a class "A" felony if committed by an adult.

Sec. 6. Section 232.45A, subsections 2 and 3, Code 2013, are amended to read as follows:

2. ~~Once a child sixteen years of age or older has been waived to and convicted of an aggravated misdemeanor or a felony in by the juvenile court to the district court, all subsequent criminal proceedings against the child for any aggravated misdemeanor or felony occurring subsequent to the date of the conviction of the child for any delinquent act committed after the date of the waiver by the juvenile court shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 10, shall be made a part of the record in the district court proceedings. However, upon acquittal or dismissal in district court of all waived offenses and all lesser included offenses of the waived offenses, the proceedings for any delinquent act committed by the child subsequent to such acquittal or dismissal shall begin in juvenile court. Any proceedings initiated in district court for a public offense committed by the child subsequent to the waiver by the juvenile court, but prior to any acquittal or dismissal of all waived offenses and lesser included offenses in district court, shall remain in district court.~~

3. ~~If proceedings against a child for an aggravated misdemeanor or a felony sixteen years of age or older who has previously been waived to and convicted of an aggravated misdemeanor or a felony in the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.~~

Sec. 7. Section 232.50, subsection 1, Code 2013, is amended to read as follows:

1. ~~As soon as practicable following the entry of an order of adjudication pursuant to section 232.47 or notification that the child has received a youthful offender deferred sentence been placed on youthful offender status pursuant to section 907.3A, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.~~

Sec. 8. Section 232.52, subsection 1, Code 2013, is amended to read as follows:

1. ~~Pursuant to a hearing as provided in section 232.50, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child, the child's prior record, or the fact that the child has received a youthful offender deferred sentence been placed on youthful offender status under section 907.3A. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual, agency, department, or facility in whom which custody is vested. In the case of a child who has received a youthful offender deferred sentence been placed on youthful offender status, the initial duration of the dispositional order shall be until the child reaches the age of eighteen.~~

Sec. 9. Section 232.54, subsection 1, paragraph g, Code 2013, is amended to read as follows:

g. ~~With respect to a juvenile court dispositional order entered regarding a child who has received a youthful offender deferred sentence been placed on youthful offender status under section 907.3A, the dispositional order may be terminated prior to the child reaching the age of eighteen upon motion of the child, the person or agency to whom custody of the child has been transferred, or the county attorney following a hearing before the juvenile court if it is shown by clear and convincing evidence that it is in the best interests of the child and the community to terminate the order. The hearing may be waived if all parties to the proceeding agree. The dispositional order regarding a child who has received a youthful offender deferred sentence been placed on youthful offender status may also be terminated prior to the child reaching the age of eighteen upon motion of the county attorney, if the waiver of the child to district court was conditioned upon the terms of an agreement between~~

the county attorney and the child, and the child violates the terms of the agreement after the waiver order has been entered. The district court shall discharge the child's youthful offender status upon receiving a termination order under this section.

Sec. 10. Section 232.54, subsection 1, paragraph h, unnumbered paragraph 1, Code 2013, is amended to read as follows:

With respect to a dispositional order entered regarding a child who has ~~received a youthful offender deferred sentence~~ been placed on youthful offender status under section 907.3A, the juvenile court may, in the case of a child who violates the terms of the order, modify or terminate the order in accordance with the following:

Sec. 11. Section 232.55, subsection 3, Code 2013, is amended to read as follows:

3. This section does not apply to dispositional orders entered regarding a child who has ~~received a youthful offender deferred sentence~~ been placed on youthful offender status under section 907.3A who is not discharged from probation before or upon the child's eighteenth birthday.

Sec. 12. Section 232.56, Code 2013, is amended to read as follows:

**232.56 Youthful offenders — transfer to district court supervision.**

The juvenile court shall deliver a report, which includes an assessment of the child by a juvenile court officer after consulting with the judicial district department of correctional services, to the district court prior to the eighteenth birthday of a child who has ~~received a youthful offender deferred sentence~~ been placed on youthful offender status under section 907.3A. A hearing shall be held in the district court in accordance with section 907.3A to determine whether the child should be discharged from youthful offender status or whether the child shall continue under the supervision of the district court after the child's eighteenth birthday.

Sec. 13. Section 235A.15, subsection 2, paragraph e, Code 2013, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (24) To an intake officer making a preliminary inquiry pursuant to section 232.28, subsection 3.

Sec. 14. Section 901.5, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Notwithstanding any provision in section 907.3 or any other provision of law prescribing a mandatory minimum sentence for the offense, if the defendant, other than a child being prosecuted as a youthful offender, is guilty of a public offense other than a class "A" felony, and was under the age of eighteen at the time the offense was committed, the court may suspend the sentence in whole or in part, including any mandatory minimum sentence, or with the consent of the defendant, defer judgment or sentence, and place the defendant on probation upon such conditions as the court may require.

Sec. 15. Section 907.3A, Code 2013, is amended to read as follows:

**907.3A Youthful offender deferred sentence — youthful offender status.**

1. Notwithstanding section 907.3 but subject to any conditions of the waiver order, the trial court shall, upon a plea of guilty or a verdict of guilty, ~~defer sentence of a youthful offender~~ place the juvenile over whom the juvenile court has waived jurisdiction pursuant to section 232.45, subsection 7, ~~and place the juvenile~~ on youthful offender status. The court shall transfer supervision of the youthful offender to the juvenile court for disposition in accordance with section 232.52. An adjudication of delinquency entered by the juvenile court at disposition for a public offense shall not be deemed a conviction and shall not preclude the subsequent entry of a deferred judgment or sentence, conviction, or sentence by the district court. The court shall require supervision of the youthful offender in accordance with section 232.54, subsection 1, paragraph "h", or subsection 2 of this section. ~~Notwithstanding section 901.2, a presentence investigation shall not be ordered by the court subsequent to an entry of a plea of guilty or verdict of guilty or prior to deferral of sentence of a youthful offender under this section.~~

2. The court shall hold a hearing prior to a youthful offender's eighteenth birthday to determine whether the youthful offender shall continue on youthful offender status after the youthful offender's eighteenth birthday ~~under the supervision of the court or be discharged.~~ Notwithstanding section 901.2, the court may order a presentence investigation report including a report for an offense classified as a class "A" felony. The court shall review the report of the juvenile court regarding the youthful offender ~~and prepared pursuant to section 232.56, and any presentence investigation report, if ordered by the court.~~ The court shall hear evidence by or on behalf of the youthful offender, by the county attorney, and by the person or agency to whom which custody of the youthful offender was transferred. The court shall make its decision, pursuant to the judgment and sentencing options available in subsection 3, after considering the services available to the youthful offender, the evidence presented, the juvenile court's report, ~~the presentence investigation report if ordered by the court,~~ the interests of the youthful offender, and interests of the community.

3. a. Notwithstanding any provision of the Code which prescribes a mandatory minimum sentence for the offense committed by the youthful offender, following transfer of the youthful offender from the juvenile court back to the court having jurisdiction over the criminal proceedings involving the youthful offender, ~~the court may continue the youthful offender deferred sentence or enter a sentence, which may be a suspended sentence.~~ shall order one of the following sentencing options:

(1) Defer judgment and place the youthful offender on probation, upon the consent of the youthful offender.

(2) Defer the sentence and place the youthful offender on probation upon such terms and conditions as the court may require.

(3) Suspend the sentence and place the youthful offender on probation upon such terms and conditions as the court may require.

(4) A term of confinement as prescribed by law for the offense.

(5) Discharge the youthful offender from youthful offender status and terminate the sentence.

b. Notwithstanding anything in section 907.7 to the contrary, if the district court ~~either grants the youthful offender a deferred judgment,~~ continues the youthful offender deferred sentence, or enters a sentence, and suspends the sentence, and places the youthful offender on probation, the term of formal supervision shall commence upon entry of the order by the district court and may continue for a period not to exceed five years. If the district court enters a sentence of confinement, and the youthful offender was previously placed in secure confinement by the juvenile court under the terms of the initial disposition order or any modification to the initial disposition order, the person shall receive credit for any time spent in secure confinement. During any period of probation imposed by the district court, a youthful offender who violates the terms of probation is subject to section 908.11.

Approved April 24, 2013