

Human Resources 3/25, Pass 4/23

Senate File 358
Human Resources
Hill of Polk, Chairman
Miller of Des Moines
Ramsey

See Human Resources 5/20

FILED MAR 24 1975

SENATE FILE 358

By KELLY, DODERER, DeKOSTER and
SCHWENGELS

Passed Senate, Date 5-15-75 (1403) Passed House, Date 6-18-75 (2654)

Vote: Ayes 41 Nays 0 Vote: Ayes 79 Nays 7

Approved 7-19-75

*Revised Senate per House amendment
6-19-75 (2198)
42-0*

A BILL FOR

1 An Act relating to neglected, dependent, and delinquent children.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section two hundred thirty-two point two
2 (232.2), subsection twelve (12), Code 1975, is amended by
3 striking paragraphs c and d.

4 Sec. 2. Section two hundred thirty-two point two (232.2),
5 subsections thirteen (13) and fourteen (14), Code 1975, are
6 amended by striking the subsections and inserting in lieu
7 thereof the following:

- 8 13. "Child in need of assistance" means a child:
 - 9 a. Who is without a parent, guardian, or other custodian.
 - 10 b. Who is in need of special care and treatment required
11 by his physical or mental condition which the parents,
12 guardian, or other custodian is unable to provide.
 - 13 c. Whose parents, guardian, or other custodian for good
14 cause desires to be relieved of his care and custody.
 - 15 d. Who is abandoned by his parents, guardian, or other
16 custodian.
 - 17 e. Who for good cause desires to have his parents relieved
18 of his care and custody.
 - 19 f. Who is without proper parental care because of the
20 emotional, mental, or physical disability, or state of
21 immaturity of his parents, guardian, or other custodian.
 - 22 g. Who is without proper parental care because of the
23 faults or habits of his parents, guardian, or other custodian.
 - 24 h. Who is living under conditions injurious to his mental
25 or physical health or welfare.
 - 26 i. Who is uncontrolled by his parents, guardian, or legal
27 custodian by reason of being wayward or habitually disobedient.
 - 28 j. Who habitually deports himself in a manner that is
29 injurious to himself or others.

30 Sec. 3. Section two hundred thirty-two point twenty-one
31 (232.21), Code 1975, is amended to read as follows:

32 232.21 JUVENILE HOME MAY BE MAINTAINED. County boards
33 of supervisors may either singly or in conjunction with one
34 or more other counties provide and maintain, separate, apart,
35 and outside the enclosure of any jail or police station, a

1 suitable juvenile home for ~~dependent, neglected,~~ children
2 in need of assistance and delinquent children. Such a home
3 shall be constructed so far as practicable so that children
4 requiring detention shall be separated from the children
5 requiring shelter.

6 Sec. 4. Section two hundred thirty-two point thirty
7 (232.30), Code 1975, is amended to read as follows:

8 232.30 PRESENCE OF CHILD WAIVED. Except in delinquency
9 proceedings ~~based-on-the-alleged-commission-of-a-public~~
10 ~~offense~~, the court may waive the presence of the child in
11 the court at any stage of the proceedings when the court deems
12 it in the best interests of the child. In delinquency
13 proceedings if the child is found to be delinquent, the court
14 after the finding of delinquency is made may excuse the
15 presence of the child from the hearing when the court deems
16 it in the best interests of the child. In any proceedings,
17 the court may temporarily excuse the presence of the parents
18 or guardian of a child from the hearing when the court deems
19 it in the best interests of the child. The attorney or
20 guardian ad litem, if any, has the right to continue to
21 participate in proceedings during the absence of the child,
22 parents, or guardian.

23 Sec. 5. Section two hundred thirty-two point thirty-one
24 (232.31), Code 1975, is amended to read as follows:

25 232.31 EVIDENCE BY CHILD AND PARENTS. The child and his
26 parents, guardian, or custodian are entitled to be heard,
27 to present evidence material to the case, and to question
28 witnesses appearing at the hearing.

29 The court's finding with respect to ~~neglect, dependency,~~
30 ~~and delinquency~~ child in need of assistance shall be based
31 upon clear and convincing evidence under the rules applicable
32 to the trial of civil cases, provided that relevant and
33 material information of any nature including that contained
34 in reports, studies, or examinations may be admitted and
35 relied upon to the extent of its probative value. When

1 information contained in a report, study, or examination is
2 admitted in evidence, the person making such a report, study,
3 or examination shall be subject to both direct and cross
4 examination when reasonably available. The court's finding
5 with respect to delinquency shall be based on the evidentiary
6 standard of beyond a reasonable doubt.

7 Sec. 6. Section two hundred thirty-two point thirty-three
8 (232.33), unnumbered paragraph one (1), Code 1975, is amended
9 to read as follows:

10 232.33 DISPOSITION OF CASE OF ~~NEGLECT-OR-DEPENDENCY~~ CHILD
11 IN NEED OF ASSISTANCE. If the court finds that the child
12 ~~is neglected-or-dependent,~~ in need of assistance the court
13 shall enter an order making any one or more of the following
14 dispositions of the case:

15 Sec. 7. Section two hundred thirty-two point forty-one
16 (232.41), paragraph e, Code 1975, is amended to read as
17 follows:

18 e. That following an adjudication ~~of-neglect-or-dependency~~
19 that a child is in need of assistance, reasonable efforts
20 under the direction of the court have failed to correct the
21 conditions leading to the termination.

22 Sec. 8. Section two hundred thirty-two point forty-seven
23 (232.47), Code 1975, is amended to read as follows:

24 232.47 ORDER OF COURT. If after a hearing the court does
25 not terminate the parent-child relationship but determines
26 that ~~conditions-of-neglect-or-dependency-exist~~ the child is
27 in need of assistance, the court ~~may-find-the-child-neglected~~
28 ~~or-dependent-and~~ may enter an order in accordance with the
29 provisions of section 232.33.

30 Sec. 9. Section two hundred thirty-two point fifty-five
31 (232.55), Code 1975, is amended to read as follows:

32 232.55 PETITIONS AND REPORTS SEGREGATED. The proceedings
33 concerning delinquency petitions filed ~~by-parents~~ and petitions
34 concerning ~~neglected-or-dependent-children~~ children in need
35 of assistance; the reports of juvenile court probation

1 officers, social workers, doctors, and psychologists; and
2 the reports of juvenile homes shall not be public records,
3 but the court may make them public in its discretion.

4 Sec. 10. Section two hundred thirty-two point sixty-three
5 (232.63), Code 1975, is amended to read as follows:

6 232.63 WHEN JURISDICTION IS EXCLUSIVE. The juvenile court
7 shall have exclusive original jurisdiction, only, in
8 proceedings concerning any child alleged to be delinquent,
9 ~~neglected, or dependent~~ or a child alleged to be in need of
10 assistance, and in proceedings for termination of parental
11 rights under sections 232.41 through 232.50, and in proceedings
12 concerning any minor alleged to have been a delinquent prior
13 to having become eighteen years of age except as otherwise
14 provided by law.

15 Sec. 11. Section two hundred thirty-two point sixty-eight
16 (232.68), Code 1975, is amended to read as follows:

17 232.68 VENUE. Venue for ~~neglect, dependency~~ children
18 in need of assistance and delinquent proceedings shall be
19 in the county where the minor is found or in the county of
20 the minor's residence. If a minor is alleged to be delinquent,
21 the county where the alleged delinquency occurred shall also
22 have venue.

23 Sec. 12. Section two hundred thirty-two point sixty-nine
24 (232.69), Code 1975, is amended to read as follows:

25 232.69 TRANSFER OF VENUE. The judge may transfer any
26 proceedings brought under this chapter to the court of any
27 county having venue at any stage of the proceedings and in
28 the following manner:

29 1. When it appears that the best interests of the minor,
30 society, or the convenience of the proceedings shall be served
31 by a transfer, the court may transfer the case to the court
32 of the county of the minor's residence.

33 2. With the consent of the receiving court, the court
34 may transfer the case to the court of the county where the
35 minor is found.

1 3. With the consent of the receiving court, the court
2 may transfer the case to the county where the alleged
3 delinquency occurred ~~if-an-alleged-delinquency-is-based-on~~
4 ~~the-commission-of-a-public-offense.~~

5 Sec. 13. Chapter two hundred thirty-two (232), Code 1975,
6 shall be titled "CHILDREN IN NEED OF ASSISTANCE AND DELINQUENT
7 CHILDREN".

8 EXPLANATION

9 This bill provides that only a juvenile who has committed
10 a criminal offense will fall under the definition of a
11 delinquent child. This bill also provides for the creation
12 of a "child in need of assistance" category which includes
13 dependent children, neglected children, and the status offenses
14 of delinquency. In addition, this bill provides that a
15 juvenile may be labeled "child in need of assistance", if
16 the juvenile wishes to have his parents relieved of his care
17 and custody. This bill also provides that an allegation of
18 delinquency must be proved beyond a reasonable doubt.

HOUSE AMENDMENT TO SENATE FILE 358

S-4266

1 Amend Senate File 358, as passed by the Senate,
2 page 5, by inserting after line 7 the following:
3 "Sec. ____ Chapter two hundred thirty-two
4 (232), Code 1975, is amended by adding the following
5 new section:
6 NEW SECTION. PLACEMENT OF A CHILD IN NEED OF
7 ASSISTANCE. Notwithstanding the provisions of
8 section two hundred thirty-two point thirty-three
9 (232.33), subsections four (4) and five (5) of the
10 Code, a minor adjudicated as a child in need of
11 assistance shall not be placed in the Iowa training
12 school for boys, or the Iowa training school for
13 girls."

S-4266 FILED
JUNE 18, 1975

RECEIVED FROM THE HOUSE
Senate concurred 6/19 (2/77)

LSB 99
be/jw/5

H-4223

1 Amend Senate File 358 as passed by the Senate as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section two hundred thirty-two point
6 two (232.2), subsection twelve (12), Code 1975, is
7 amended by striking paragraphs c and d.

8 Sec. 2. Section two hundred thirty-two point two
9 (232.2), subsection thirteen (13), Code 1975, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. Who is uncontrolled by his parents,
12 guardian, or legal custodian by reason of being wayward
13 or habitually disobedient.

14 Sec. 3. Section two hundred thirty-two point
15 thirty (232.30), Code 1975, is amended to read as
16 follows:

17 232.30 PRESENCE OF CHILD WAIVED. Except in
18 delinquency proceedings ~~based-on-the-alleged-commission~~
19 ~~of-a-public-offense~~, the court may waive the presence
20 of the child in the court at any stage of the
21 proceedings when the court deems it in the best
22 interests of the child. In delinquency proceedings
23 if the child is found to be delinquent, the court
24 after the finding of delinquency is made may excuse
25 the presence of the child from the hearing when the
26 court deems it in the best interests of the child.
27 In any proceedings, the court may temporarily excuse
28 the presence of the parents or guardian of a child
29 from the hearing when the court deems it in the best
30 interests of the child. The attorney or guardian
31 ad litem, if any, has the right to continue to par-
32 ticipate in proceedings during the absence of the
33 child, parents, or guardian.

34 Sec. 4. Section two hundred thirty-two point
35 sixty-nine (232.69), subsection three (3), Code 1975,
36 is amended to read as follows:

37 3. With the consent of the receiving court, the
38 court may transfer the case to the county where the
39 alleged delinquency occurred ~~if-an-alleged-delinquency~~
40 ~~is-based-on-the-commission-of-a-public-offense.~~"

41 2. Title page, line 1 by striking the words
42 "neglected, dependent," and inserting in lieu thereof
43 the word "dependent".

H-4223 FILED - *Withdrawn 6/18 (2654)* BY HIGGINS of Scott
JUNE 12, 1975

H-4224

1 Amend H-4223 by Higgins to Senate File 358,
2 as passed by the Senate, page 1, by inserting after
3 line 40 the following:

4 "Sec. _____. Chapter two hundred thirty-two
5 (232), Code 1975, is amended by adding the following
6 new section:

7 NEW SECTION. PLACEMENT OF DEPENDENT AND NEGLECTED
8 MINORS. Notwithstanding the provisions of section
9 two hundred thirty-two point thirty-three (232.33),
10 subsections four (4) and five (5) of the Code, a minor
11 adjudicated as neglected or dependent shall not be
12 placed in the Iowa training school for boys, or the
13 Iowa training school for girls."

H-4224 FILED - *Withdrawn 6/18 (2654)* BY HIGGINS of Scott
JUNE 12, 1975

H-4242

1 Amend Senate File 358, as passed by the
2 Senate, page 5, by inserting after line 7 the
3 following:

4 "Sec. _____. Chapter two hundred thirty-two
5 (232), Code 1975, is amended by adding the following
6 new section:

7 NEW SECTION. PLACEMENT OF A CHILD IN NEED OF
8 ASSISTANCE. Notwithstanding the provisions of
9 section two hundred thirty-two point thirty-three
10 (232.33), subsections four (4) and five (5) of the
11 Code, a minor adjudicated as a child in need of
12 assistance shall not be placed in the Iowa training
13 school for boys, or the Iowa training school for
14 girls."

H-4242 FILED - *Adopted 6/18 (2654)* BY HIGGINS of Scott
JUNE 12, 1975 LIPSKY of Linn

SENATE FILE 358

AN ACT

RELATING TO NEGLECTED, DEPENDENT, AND DELINQUENT CHILDREN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section two hundred thirty-two point two (232.2), subsection twelve (12), Code 1975, is amended by striking paragraphs c and d.

Sec. 2. Section two hundred thirty-two point two (232.2), subsections thirteen (13) and fourteen (14), Code 1975, are amended by striking the subsections and inserting in lieu thereof the following:

13. "Child in need of assistance" means a child:

- a. Who is without a parent, guardian, or other custodian.
- b. Who is in need of special care and treatment required by his physical or mental condition which the parents, guardian, or other custodian is unable to provide.
- c. Whose parents, guardian, or other custodian for good cause desires to be relieved of his care and custody.
- d. Who is abandoned by his parents, guardian, or other custodian.
- e. Who for good cause desires to have his parents relieved of his care and custody.
- f. Who is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of his parents, guardian, or other custodian.
- g. Who is without proper parental care because of the faults or habits of his parents, guardian, or other custodian.
- h. Who is living under conditions injurious to his mental or physical health or welfare.
- i. Who is uncontrolled by his parents, guardian, or legal custodian by reason of being wayward or habitually disobedient.
- j. Who habitually deports himself in a manner that is injurious to himself or others.

Sec. 3. Section two hundred thirty-two point twenty-one

(232.21), Code 1975, is amended to read as follows:

232.21 JUVENILE HOME MAY BE MAINTAINED. County boards of supervisors may either singly or in conjunction with one or more other counties provide and maintain, separate, apart, and outside the enclosure of any jail or police station, a suitable juvenile home for ~~dependent, neglected,~~ children in need of assistance and delinquent children. Such a home shall be constructed so far as practicable so that children requiring detention shall be separated from the children requiring shelter.

Sec. 4. Section two hundred thirty-two point thirty (232.30), Code 1975, is amended to read as follows:

232.30 PRESENCE OF CHILD WAIVED. Except in delinquency proceedings ~~based on the alleged commission of a public offense,~~ the court may waive the presence of the child in the court at any stage of the proceedings when the court deems it in the best interests of the child. In delinquency proceedings if the child is found to be delinquent, the court after the finding of delinquency is made may excuse the presence of the child from the hearing when the court deems it in the best interests of the child. In any proceedings, the court may temporarily excuse the presence of the parents or guardian of a child from the hearing when the court deems it in the best interests of the child. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the child, parents, or guardian.

Sec. 5. Section two hundred thirty-two point thirty-one (232.31), Code 1975, is amended to read as follows:

232.31 EVIDENCE BY CHILD AND PARENTS. The child and his parents, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to question witnesses appearing at the hearing.

The court's finding with respect to ~~neglect, dependency,~~ and delinquency child in need of assistance shall be based upon clear and convincing evidence under the rules applicable to the trial of civil cases, provided that relevant and

material information of any nature including that contained in reports, studies, or examinations may be admitted and relied upon to the extent of its probative value. When information contained in a report, study, or examination is admitted in evidence, the person making such a report, study, or examination shall be subject to both direct and cross-examination when reasonably available. The court's finding with respect to delinquency shall be based on the evidentiary standard of beyond a reasonable doubt.

Sec. 6. Section two hundred thirty-two point thirty-three (232.33), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

232.33 ~~DISPOSITION OF CASE OF NEGLECT-OR-DEPENDENCY CHILD IN NEED OF ASSISTANCE.~~ If the court finds that the child is ~~neglected-or-dependent,~~ in need of assistance the court shall enter an order making any one or more of the following dispositions of the case:

Sec. 7. Section two hundred thirty-two point forty-one (232.41), paragraph e, Code 1975, is amended to read as follows:

e. That following an adjudication ~~of neglect-or-dependency that a child is in need of assistance,~~ reasonable efforts under the direction of the court have failed to correct the conditions leading to the termination.

Sec. 8. Section two hundred thirty-two point forty-seven (232.47), Code 1975, is amended to read as follows:

232.47 ORDER OF COURT. If after a hearing the court does not terminate the parent-child relationship but determines that ~~conditions-of-neglect-or-dependency-exist the child is in need of assistance,~~ the court ~~may find the child neglected or dependent-and~~ may enter an order in accordance with the provisions of section 232.33.

Sec. 9. Section two hundred thirty-two point fifty-five (232.55), Code 1975, is amended to read as follows:

232.55 PETITIONS AND REPORTS SEGREGATED. The proceedings concerning delinquency petitions filed ~~by parents~~ and petitions concerning ~~neglected-or-dependent-children~~ children in need

of assistance; the reports of juvenile court probation officers, social workers, doctors, and psychologists; and the reports of juvenile homes shall not be public records, but the court may make them public in its discretion.

Sec. 10. Section two hundred thirty-two point sixty-three (232.63), Code 1975, is amended to read as follows:

232.63 WHEN JURISDICTION IS EXCLUSIVE. The juvenile court shall have exclusive original jurisdiction, only, in proceedings concerning any child alleged to be delinquent, ~~neglected-or-dependent~~ or a child alleged to be in need of assistance, and in proceedings for termination of parental rights under sections 232.41 through 232.50, and in proceedings concerning any minor alleged to have been a delinquent prior to having become eighteen years of age except as otherwise provided by law.

Sec. 11. Section two hundred thirty-two point sixty-eight (232.68), Code 1975, is amended to read as follows:

232.68 VENUE. Venue for ~~neglect,-dependency~~ children in need of assistance and delinquent proceedings shall be in the county where the minor is found or in the county of the minor's residence. If a minor is alleged to be delinquent, the county where the alleged delinquency occurred shall also have venue.

Sec. 12. Section two hundred thirty-two point sixty-nine (232.69), Code 1975, is amended to read as follows:

232.69 TRANSFER OF VENUE. The judge may transfer any proceedings brought under this chapter to the court of any county having venue at any stage of the proceedings and in the following manner:

1. When it appears that the best interests of the minor, society, or the convenience of the proceedings shall be served by a transfer, the court may transfer the case to the court of the county of the minor's residence.

2. With the consent of the receiving court, the court may transfer the case to the court of the county where the minor is found.

3. With the consent of the receiving court, the court

may transfer the case to the county where the alleged delinquency occurred ~~if-an-alleged-delinquency-is-based-on the-commission-of-a-public-offense.~~

Sec. 13. Chapter two hundred thirty-two (232), Code 1975, shall be titled "CHILDREN IN NEED OF ASSISTANCE AND DELINQUENT CHILDREN".

Sec. 14. Chapter two hundred thirty-two (232), Code 1975, is amended by adding the following new section:

NEW SECTION. PLACEMENT OF A CHILD IN NEED OF ASSISTANCE. Notwithstanding the provisions of section two hundred thirty-two point thirty-three (232.33), subsections four (4) and five (5) of the Code, a minor adjudicated as a child in need of assistance shall not be placed in the Iowa training school for boys, or the Iowa training school for girls.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 358, Sixty-sixth General Assembly.

Approved July 19, 1975

CLARK R. RASMUSSEN
Secretary of the Senate

ROBERT D. RAY
Governor