

MAR 12 1982

Place On Calendar

HOUSE FILE 2460

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House File 714)

Passed House, Date 3-25-82 (p. 994) Passed Senate, Date 4-13-82 (P. 1167)

Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 1

Approved _____

A BILL FOR

1 An Act amending the juvenile justice code to allow children
 2 sixteen years of age or older under certain circumstances
 3 to waive representation by legal counsel when initially
 4 taken into custody, to allow oral court orders for
 5 temporary placements in shelter care or detention
 6 facilities, to add a cross-reference to a Code section
 7 containing conditions of release, to provide that com-
 8 plaints of serious offenses allegedly committed by
 9 children fourteen years of age or older are public
 10 records, to provide for victim restitution under
 11 informal adjustments and consent decrees, to allow
 12 notice of shelter care or detention hearings to be
 13 other than personal notice, to clarify that shelter
 14 care and detention notice and hearing requirements
 15 do not apply to temporary and emergency removals of
 16 children in need of assistance, to require delinquency
 17 adjudicatory hearings to be held within sixty days,
 18 to delay the automatic termination beyond the age of
 19 eighteen of certain dispositional orders, to provide
 20 for the removal of an alleged sexual offender from a
 21 child's household, to provide for inpatient examination
 22 under certain conditions prior to adjudication as a
 23 child in need of assistance, to allow the taking and
 24 filing of fingerprints and photographs of children in
 25 felony cases, to provide for the sealing of juvenile

2460

1 court and law enforcement records in certain cases
2 involving serious offenses only if in the best interests
3 of the child and the public, and to make nonsubstantive,
4 technical changes in the juvenile justice code.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section 232.2, subsection 7, Code 1981, is
2 amended to read as follows:

3 7. "Complaint" means ~~a-verbal~~ an oral or written report
4 which is made to the juvenile court by any person and alleges
5 that a child is within the jurisdiction of the court.

6 Sec. 2. Section 232.11, subsection 2, Code 1981, is amended
7 to read as follows:

8 2. The child's right to be represented by counsel under
9 subsection 1, paragraphs "b" to "f" of this section shall
10 not be waived by a child of any age. The child's right to
11 be represented by counsel under subsection 1, paragraph "a"
12 shall not be waived by ~~the~~ a child less than sixteen years
13 of age without the written consent of the child's parent,
14 guardian, or custodian. The waiver by a child who is at least
15 sixteen years of age is valid only if a good faith effort
16 has been made to notify the child's parent, guardian, or
17 custodian that the child has been taken into custody and of
18 the alleged delinquent act for which the child has been taken
19 into custody, the location of the child, and the right of
20 the parent, guardian, or custodian to visit and confer with
21 the child.

22 Sec. 3. Section 232.21, subsection 4, Code 1981, is amended
23 to read as follows:

24 4. A child placed in a shelter care facility under this
25 section shall not be held for a period in excess of forty-
26 eight hours without a an oral or written court order
27 authorizing such the shelter care. When the action is
28 authorized by an oral court order, the court shall enter a
29 written order before the end of the next day confirming the
30 oral order and indicating the reasons for the order. A child
31 placed in shelter care pursuant to section 232.19, subsection
32 1, paragraph "c" shall not be held in excess of seventy-two
33 hours in any event.

34 Sec. 4. Section 232.22, subsection 1, paragraph c, Code
35 1981, is amended to read as follows:

1 c. There is probable cause to believe that the child has
2 violated conditions of release imposed under section 232-54
3 or 232.44, subsection 5, paragraph "b", 232.52, or 232.54
4 and there is a substantial probability that the child will
5 run away or otherwise be unavailable for subsequent court
6 appearance; or

7 Sec. 5. Section 232.22, subsections 3 and 4, Code 1981,
8 are amended to read as follows:

9 3. ~~No~~ A child shall not be held in a facility under sub-
10 section 2, paragraphs "a" ~~and~~ or "b" for a period in excess
11 of twenty-four hours without a an oral or written court order
12 authorizing ~~such~~ the detention. When the detention is
13 authorized by an oral court order, the court shall enter a
14 written order before the end of the next day confirming the
15 oral order and indicating the reasons for the order.

16 4. ~~No~~ A child shall not be detained in a facility under
17 subsection 2, paragraph "c" for a period in excess of twelve
18 hours without the oral or written order of a judge or a
19 magistrate authorizing ~~such~~ the detention. When the detention
20 is authorized by an oral court order, the court shall enter
21 a written order before the end of the next day confirming
22 the oral order and indicating the reasons for the order.

23 Sec. 6. Section 232.28, Code 1981, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. A complaint filed with the court or its
26 designee pursuant to this section which alleges that a child
27 fourteen years of age or older has committed a delinquent
28 act which if committed by an adult would be an aggravated
29 misdemeanor or a felony shall be a public record and shall
30 not be confidential under section 232.147.

31 Sec. 7. Section 232.29, Code 1981, is amended by add-
32 ing the following new paragraph:

33 NEW PARAGRAPH. An informal adjustment agreement may require
34 the child to perform a work assignment of value to the state
35 or to the public or require the child to make restitution

1 consisting of a monetary payment to the victim or a work
2 assignment directly of value to the victim.

3 Sec. 8. Section 232.44, subsection 3, Code 1981, is amended
4 to read as follows:

5 3. A notice ~~stating the time, place, and purpose of the~~
6 ~~hearing~~ shall be served ~~personally~~ upon the child, the child's
7 attorney, the child's guardian ad litem if any, and the child's
8 known parent, guardian, or custodian not less than twenty-
9 four hours before the time the hearing is scheduled to begin
10 and in a manner calculated fairly to apprise the parties of
11 the time, place, and purpose of the hearing. If the court
12 finds that there has been reasonably diligent effort to give
13 notice to a parent, guardian, or custodian and that the effort
14 has been unavailing, the hearing may proceed without ~~such~~
15 the notice having been served.

16 Sec. 9. Section 232.44, Code 1981, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. This section does not apply to a child
19 placed in accordance with section 232.78, 232.79, or 232.95.

20 Sec. 10. Section 232.46, subsection 1, Code 1981, is
21 amended to read as follows:

22 1. At any time after the filing of a petition and prior
23 to entry of an order of adjudication pursuant to section
24 232.47, the court may suspend the proceedings on motion of
25 the county attorney or the child's counsel, enter a consent
26 decree, and continue the case under terms and conditions
27 established by the court. These terms and conditions may
28 include the supervision of the child by a juvenile probation
29 officer or other agency or person designated by the court
30 and may include the requirement that the child perform a work
31 assignment of value to the state or to the public or make
32 restitution consisting of a monetary payment to the victim
33 or a work assignment directly of value to the victim.

34 Sec. 11. Section 232.47, subsection 2, Code 1981, is
35 amended to read as follows:

1 2. The court shall hear and adjudicate all cases involving
2 a petition alleging a child to have committed a delinquent
3 act. The court shall hold the hearing not later than sixty
4 days from the date the child was taken into custody for the
5 delinquent act, excluding the time required for proceedings
6 under sections 232.29, 232.45, and 232.46. If the hearing
7 is not held within the sixty days, the court shall dismiss
8 the petition unless good cause to the contrary is shown.

9 Sec. 12. Section 232.53, subsection 2, Code 1981, is
10 amended to read as follows:

11 2. All dispositional orders entered prior to the child
12 attaining the age of seventeen years and six months shall
13 automatically terminate when the child becomes eighteen years
14 of age, ~~except that in.~~ Dispositional orders entered
15 subsequent to the child attaining the age of seventeen years
16 and six months and prior to the child's eighteenth birthday
17 shall automatically terminate one year after the date of
18 disposition. In the case of an adult within the jurisdiction
19 of the court under the provisions of section 232.8, subsection
20 1, the dispositional order shall automatically terminate one
21 year after the last date upon which jurisdiction could attach.

22 Sec. 13. Chapter 232, Code 1981, is amended by adding
23 the following new section immediately after section 232.81:

24 NEW SECTION. REMOVAL OF SEXUAL OFFENDERS FROM THE RESIDENCE
25 PURSUANT TO COURT ORDER.

26 1. Notwithstanding section 561.15, if it is alleged that
27 a parent, guardian, custodian, or an adult member of the
28 household in which a child resides has committed a sexual
29 offense with or against the child, pursuant to chapter 709
30 or section 726.2, the juvenile court may enter an ex parte
31 order requiring the alleged sexual offender to vacate the
32 child's residence upon a showing that probable cause exists
33 to believe that the sexual offense has occurred.

34 2. If an order is entered under subsection 1 and a petition
35 has not yet been filed under this chapter, the petition shall

1 be filed under section 232.87 by the county attorney, the
2 department of social services, or a probation officer within
3 three days of the entering of the order.

4 3. The juvenile court may order on its own motion, or
5 shall order upon the request of the alleged sexual offender,
6 a hearing to determine whether the order to vacate the
7 residence should be upheld, modified, or vacated. The juvenile
8 court may in any later child in need of assistance proceeding
9 uphold, modify, or vacate the order to vacate the residence.

10 Sec. 14. Section 232.98, subsection 1, Code 1981, is
11 amended to read as follows:

12 1. A physical or mental examination of the child may be
13 ordered only after the filing of a petition pursuant to section
14 232.87 and after a hearing to determine whether such an
15 examination is necessary to determine the child's physical
16 or mental condition.

17 The hearing required by this section may be held
18 simultaneously with the adjudicatory hearing.

19 An examination ordered prior to the adjudication shall
20 be conducted on an outpatient basis when possible, but if
21 necessary the court may be-performed-on-an-outpatient-basis
22 only- commit the child to a suitable nonsecure hospital,
23 facility, or institution for the purpose of examination for
24 a period not to exceed fifteen days if all of the following
25 are found to be present:

26 a. Probable cause exists to believe that the child is
27 a child in need of assistance pursuant to section 232.2,
28 subsection 5, paragraph e or f.

29 b. Commitment is necessary to determine whether there
30 is clear and convincing evidence that the child is a child
31 in need of assistance.

32 c. The child's attorney agrees to the commitment.

33 PARAGRAPH DIVIDED. An examination ordered after
34 adjudication shall be conducted on an outpatient basis whenever
35 when possible, but if necessary the court may commit the child

1 to a suitable nonsecure hospital, facility, or institution
2 for the purpose of examination for a period not to exceed
3 thirty days. ~~The civil commitment provisions of chapter 229~~
4 ~~shall not apply to such commitments.~~

5 Sec. 15. Section 232.148, Code 1981, is amended to read
6 as follows:

7 232.148 FINGERPRINTS--PHOTOGRAPHS.

8 1. Except as provided in this section, a child shall not
9 be fingerprinted or photographed by a criminal justice agency
10 after ~~he or she~~ the child is taken into custody ~~and fingerprint~~
11 ~~files of children shall not be inspected unless the juvenile~~
12 ~~court waives its jurisdiction over the child so that the child~~
13 ~~may be prosecuted as an adult for the commission of a public~~
14 ~~offense.~~

15 2. Fingerprints and photographs of a child who has been
16 taken into custody ~~and who is fourteen years of age or older~~
17 may be taken and filed by a criminal justice agency
18 investigating the commission of a public offense constituting
19 a felony. However, fingerprint and photograph files of a
20 child who enters into an informal adjustment or consent decree
21 shall be retained only if the child is notified at the time
22 of entering into the informal adjustment or consent decree
23 that the files will be permanently retained by the criminal
24 justice agency.

25 3. If a peace officer has reasonable grounds to believe
26 that latent fingerprints found during the investigation of
27 the commission of a public offense are those of a particular
28 child, fingerprints of the child may be taken for immediate
29 comparison with the latent fingerprints regardless of ~~the~~
30 ~~age of the child or~~ the nature of the offense. If the
31 comparison is negative the fingerprint card and other copies
32 of the fingerprints taken shall be immediately destroyed.
33 If the comparison is positive and the child is referred to
34 the court, the fingerprint card and other copies of the
35 fingerprints taken shall be delivered to the court for

1 disposition. If the child is not referred to the court, the
2 fingerprint card and copies of the fingerprints shall be
3 immediately destroyed.

4 4. Fingerprint and photograph files of children shall
5 be kept separate from those of adults. Copies of fingerprints
6 and photographs of a child shall not be placed in any data
7 storage system established and maintained by the department
8 of public safety pursuant to chapter 692, or in any federal
9 depository for fingerprints.

10 5. Fingerprint and photograph files of children may be
11 inspected by peace officers when necessary for the discharge
12 of their official duties. The juvenile court may authorize
13 other inspections of such files in individual cases upon a
14 showing that inspection is necessary in the public interest.

15 6. Fingerprints and photographs of a child shall be removed
16 from the file and destroyed if any of the following situations
17 apply:

18 a. A petition alleging the child to be delinquent is not
19 filed~~, or~~ and the child has not entered into an informal
20 adjustment, admitting involvement in a delinquent act alleged
21 in the complaint.

22 b. After a petition is filed, the petition is dismissed
23 or the proceedings are suspended and the child is found by
24 the court not to be delinquent, or has not entered into a
25 consent decree and has not been adjudicated delinquent on
26 the basis of a delinquent act other than one alleged in the
27 petition in question.

28 c. Upon petition by the child when ~~he or she~~ the child
29 reaches twenty-one years of age and ~~he or she~~ the child has
30 not been adjudicated a delinquent nor convicted of committing
31 an aggravated misdemeanor or a felony after reaching sixteen
32 years of age.

33 7. ~~A child shall not be photographed by a criminal justice~~
34 ~~agency after he or she is taken into custody without the~~
35 ~~consent of the court unless the court waives jurisdiction~~

1 ~~over-the-child-so-that-he-or-she-may-be-prosecuted-as-an-adult~~
 2 ~~for-the-commission-of-a-public-offense-~~

3 Sec. 16. Section 232.150, subsection 1, Code 1981, is
 4 amended to read as follows:

5 1. Upon application of a person who was taken into custody
 6 for a delinquent act or was the subject of a complaint alleging
 7 delinquency or was the subject of a delinquency petition,
 8 or upon the court's own motion, the court, after hearing,
 9 shall order the records in the case including those specified
 10 in sections 232.147 and 232.149 sealed if the court finds
 11 ~~that~~ all of the following:

12 a. Two years have elapsed since the final discharge of
 13 ~~such~~ the person or since the last official action in ~~his-or~~
 14 ~~her~~ the person's case if there was no adjudication and
 15 disposition; ~~and.~~

16 b. ~~Such~~ The person has not been subsequently convicted
 17 of a felony or an aggravated or serious misdemeanor or
 18 adjudicated a delinquent child for an act which if committed
 19 by an adult would be a felony, an aggravated misdemeanor or
 20 a serious misdemeanor and no proceeding is pending seeking
 21 such conviction or adjudication.

22 However, if the person was adjudicated delinquent for an
 23 offense which if committed by an adult would be an aggravated
 24 misdemeanor or a felony, the court shall not order the records
 25 in the case sealed unless, upon application of the person
 26 or upon the court's own motion and after hearing, the court
 27 finds that paragraphs a and b apply and that the sealing is
 28 in the best interests of the person and the public.

29 EXPLANATION

30 This bill amends the juvenile justice code to make the
 31 following changes relating to delinquency and child in need
 32 of assistance proceedings.

33 Section 1 is a conforming amendment.

34 Section 2 allows a child who is at least sixteen years
 35 of age to waive the right to representation of counsel, when

1 taken into custody, without the written consent of the child's
2 parent, guardian, or custodian, but only if a good faith
3 effort has been made to notify the child's parent, guardian,
4 or custodian.

5 Sections 3 and 5 allow the juvenile court to orally order
6 the placement of a child in a shelter care facility for a
7 period in excess of forty-eight hours or in a detention
8 facility for a period in excess of twenty-four hours. The
9 oral order must be entered in writing before the end of the
10 next day.

11 Section 4 adds a cross-reference to a section of the
12 juvenile justice code containing conditions of release.

13 Section 6 provides that complaints alleging the commission
14 of serious offenses by children fourteen years of age or older
15 are public records.

16 Sections 7 and 10 add language to include restitution to
17 a victim or to the state or public as a specific disposition
18 under an informal adjustment or a consent decree.

19 Section 8 strikes the personal notice requirement and
20 allows notice of a shelter care or detention hearing to be
21 served in a manner calculated to fairly notify the parties
22 of the time, place, and purpose of the hearing.

23 Section 9 clarifies that the shelter care and detention
24 notice and hearing requirements in section 232.44 do not apply
25 to temporary and emergency removals of children under child
26 in need of assistance proceedings.

27 Section 11 requires that an adjudicatory hearing on
28 delinquency be held within sixty days from the date the child
29 was taken into custody, unless good cause is shown to allow
30 a longer delay. Time periods involving an informal adjustment,
31 a consent decree, or a hearing to waive juvenile court
32 jurisdiction are excluded from the sixty-day period.

33 Section 12 provides that dispositional orders entered
34 subsequent to the child attaining the age of seventeen years
35 and six months and prior to the child's eighteenth birthday

1 automatically terminate one year after the date of disposition.

2 Section 13 allows the court to order an alleged sexual
3 offender of a child in the same household to vacate the child's
4 residence. To enter the order probable cause to believe that
5 the sexual offense has occurred must be shown. A hearing
6 on the order to vacate is provided for and a petition alleging
7 the child to be a child in need of assistance is required
8 to be filed within three days.

9 Section 14 allows commitment to a nonsecure facility for
10 the purpose of examination to determine whether a child is
11 a child in need of assistance. Prior to adjudication an
12 inpatient examination not to exceed fifteen days may be ordered
13 if probable cause exists to believe that the child needs
14 physical or mental treatment and if commitment is necessary
15 to determine by clear and convincing evidence that the child
16 is a child in need of assistance.

17 Section 15 allows fingerprints and photographs of children
18 taken into custody for the commission of a public offense
19 which would be a felony if committed by an adult, to be taken
20 and filed by a law enforcement agency. If a child enters
21 into an informal adjustment or consent decree the child must
22 be informed that fingerprint and photograph files will be
23 permanently retained. Such files shall be destroyed if a
24 petition is not filed and the child has not entered into an
25 informal adjustment or if a petition is filed, and dismissed
26 or suspended, and the child has not entered into an informal
27 adjustment and has not been otherwise adjudicated delinquent.

28 Section 16 provides that juvenile court and law enforcement
29 records of a child adjudicated delinquent for an offense which
30 would be an aggravated misdemeanor or a felony if committed
31 by an adult are not to be sealed unless the court finds that
32 the child has a clean juvenile and criminal record for the
33 past two years and sealing is in the best interests of the
34 child and the public.

35 The bill would become law July 1 following enactment.

LSB 4000H 69

rj/jw/5.1

HOUSE FILE 2460

H-5455

- 1 Amend House File 2460 as follows:
2 1. Page 6, by inserting after line 4 the following:
3 "The child's parent, guardian, or custodian shall
4 be included in counseling sessions offered during
5 the child's stay in a hospital, facility, or
6 institution when feasible, and when in the best
7 interests of the child and the child's parent,
8 guardian, or custodian. If separate counseling
9 sessions are conducted for the child and the child's
10 parent, guardian, or custodian, a joint counseling
11 session shall be offered prior to the release of the
12 child from the hospital, facility, or institution."

H-5455 FILED MARCH 17, 1982
Adopted 3/25 (p. 993)

BY CONNORS of Polk

HOUSE FILE 2460

H-5527

- 1 Amend House File 2460 as follows:
2 1. Page 4, by inserting after line 21, the
3 following:
4 "Sec. ____ . Section 232.71, Code 1981, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. If a fourth report is received
7 from the same person who made three earlier
8 unsubstantiated reports which identified the same
9 child as the abused child and the same person
10 responsible for the child as the alleged abuser, the
11 department may determine that the report is spurious
12 and may in its discretion terminate its investigation."
13 2. By renumbering as necessary.

H-5527 FILED
MARCH 23, 1982

*Adopted as amended by 5543
3/25 (p. 993)*

BY BRANDT of Black Hawk
LAGESCHULTE of Bremer

HOUSE FILE 2460

H-5543

- 1 Amend amendment H-5527 to House File 2460 as
2 follows:
3 1. Page 1, line 11, by inserting after the word
4 "spurious" the words ", unfounded, or frivolous".

H-5543 FILED MARCH 24, 1982
Adopted 3/26 (p. 993)

BY DODERER of Johnson

HOUSE FILE 2460

H-5555

1 Amend House File 2460, as follows:
2 1. First title page, by inserting, after line
3 17, the following: "to allow termination of child
4 abuse investigations by the department of social
5 services, to authorize the presence of a parent,
6 guardian or custodian at a child's counseling
7 session,".

H-5555 FILED MARCH 25, 1982

ADOPTED BY UNANIMOUS CONSENT (p. 493) BY SMALLEY of Polk

Sen. Judiciary 3/29

HOUSE FILE 2460

Amend per 54604
to Pass 4/2 (p. 1021)

Judiciary
Murray, Chair
Rush
DeKoster

HOUSE FILE 2460

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(As Amended and Passed by the House)

Re Passed House, Date 4-15-82 (p. 151) Passed Senate, Date 4-13-82 (p. 1167)

Vote: Ayes 97 Nays 1 Vote: Ayes 47 Nays 1

Approved May 12, 1982

Repassed House per C.C. Report
4-24-82 (p. 1803)

Repassed Senate per Conference Committee Report
4-24-82 (p. 1468)

97-1

A BILL FOR

49-0

1 An Act amending the juvenile justice code to allow children
 2 sixteen years of age or older under certain circumstances
 3 to waive representation by legal counsel when initially
 4 taken into custody, to allow oral court orders for
 5 temporary placements in shelter care or detention
 6 facilities, to add a cross-reference to a Code section
 7 containing conditions of release, to provide that com-
 8 plaints of serious offenses allegedly committed by
 9 children fourteen years of age or older are public
 10 records, to provide for victim restitution under
 11 informal adjustments and consent decrees, to allow
 12 notice of shelter care or detention hearings to be
 13 other than personal notice, to clarify that shelter
 14 care and detention notice and hearing requirements
 15 do not apply to temporary and emergency removals of
 16 children in need of assistance, to require delinquency
 17 adjudicatory hearings to be held within sixty days,
 18 to allow termination of child abuse investigations by
 19 the department of social services, to authorize the
 20 presence of a parent, guardian or custodian at a child's
 21 counseling session, to delay the automatic termination
 22 beyond the age of eighteen of certain dispositional orders,
 23 to provide for the removal of an alleged sexual offender
 24 from a child's household, to provide for inpatient
 25 examination under certain conditions prior to adjudication

1 as a child in need of assistance, to allow the
2 taking and filing of fingerprints and photographs
3 of children in felony cases, to provide for the
4 sealing of juvenile court and law enforcement
5 records in certain cases involving serious offenses
6 only if in the best interests of the child and the
7 public, and to make nonsubstantive, technical changes
8 in the juvenile justice code.

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

10 *Conference Committee Appointed 4/22*

11 *Senators Murray (Chair), Gentlemen, Ramsey, Bush, Coleman (p. 1372)*
12 *Representatives Conlon (Chair), Poffenberger, Trucan, Bensen, Rosenberg (p. 1673)*

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17 House Amendments _____
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1 Section 1. Section 232.2, subsection 7, Code 1981, is
2 amended to read as follows:

3 7. "Complaint" means a-verbal an oral or written report
4 which is made to the juvenile court by any person and alleges
5 that a child is within the jurisdiction of the court.

6 Sec. 2. Section 232.11, subsection 2, Code 1981, is amended
7 to read as follows:

8 2. The child's right to be represented by counsel under
9 subsection 1, paragraphs "b" to "f" of this section shall
10 not be waived by a child of any age. The child's right to
11 be represented by counsel under subsection 1, paragraph "a"
12 shall not be waived by ~~the~~ a child less than sixteen years
13 of age without the written consent of the child's parent,
14 guardian, or custodian. The waiver by a child who is at least
15 sixteen years of age is valid only if a good faith effort
16 has been made to notify the child's parent, guardian, or
17 custodian that the child has been taken into custody and of
18 the alleged delinquent act for which the child has been taken
19 into custody, the location of the child, and the right of
20 the parent, guardian, or custodian to visit and confer with
21 the child.

22 Sec. 3. Section 232.21, subsection 4, Code 1981, is amended
23 to read as follows:

24 4. A child placed in a shelter care facility under this
25 section shall not be held for a period in excess of forty-
26 eight hours without a an oral or written court order
27 authorizing ~~such~~ the shelter care. When the action is
28 authorized by an oral court order, the court shall enter a
29 written order before the end of the next day confirming the
30 oral order and indicating the reasons for the order. A child
31 placed in shelter care pursuant to section 232.19, subsection
32 1, paragraph "c" shall not be held in excess of seventy-two
33 hours in any event.

34 Sec. 4. Section 232.22, subsection 1, paragraph c, Code
35 1981, is amended to read as follows:

1 c. There is probable cause to believe that the child has
2 violated conditions of release imposed under section 232-54
3 or 232.44, subsection 5, paragraph "b", 232.52, or 232.54
4 and there is a substantial probability that the child will
5 run away or otherwise be unavailable for subsequent court
6 appearance; or

7 Sec. 5. Section 232.22, subsections 3 and 4, Code 1981,
8 are amended to read as follows:

9 3. No A child shall not be held in a facility under sub-
10 section 2, paragraphs "a" and or "b" for a period in excess
11 of twenty-four hours without a an oral or written court order
12 authorizing such the detention. When the detention is
13 authorized by an oral court order, the court shall enter a
14 written order before the end of the next day confirming the
15 oral order and indicating the reasons for the order.

16 4. No A child shall not be detained in a facility under
17 subsection 2, paragraph "c" for a period in excess of twelve
18 hours without the oral or written order of a judge or a
19 magistrate authorizing such the detention. When the detention
20 is authorized by an oral court order, the court shall enter
21 a written order before the end of the next day confirming
22 the oral order and indicating the reasons for the order.

23 Sec. 6. Section 232.28, Code 1981, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. A complaint filed with the court or its
26 designee pursuant to this section which alleges that a child
27 fourteen years of age or older has committed a delinquent
28 act which if committed by an adult would be an aggravated
29 misdemeanor or a felony shall be a public record and shall
30 not be confidential under section 232.147.

31 Sec. 7. Section 232.29, Code 1981, is amended by add-
32 ing the following new paragraph:

33 NEW PARAGRAPH. An informal adjustment agreement may require
34 the child to perform a work assignment of value to the state
35 or to the public or require the child to make restitution

1 consisting of a monetary payment to the victim or a work
2 assignment directly of value to the victim.

3 Sec. 8. Section 232.44, subsection 3, Code 1981, is amended
4 to read as follows:

5 3. A notice ~~stating the time, place, and purpose of the~~
6 ~~hearing~~ shall be served personally upon the child, the child's
7 attorney, the child's guardian ad litem if any, and the child's
8 known parent, guardian, or custodian not less than twenty-
9 four hours before the time the hearing is scheduled to begin
10 and in a manner calculated fairly to apprise the parties of
11 the time, place, and purpose of the hearing. If the court
12 finds that there has been reasonably diligent effort to give
13 notice to a parent, guardian, or custodian and that the effort
14 has been unavailing, the hearing may proceed without ~~such~~
15 the notice having been served.

16 Sec. 9. Section 232.44, Code 1981, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. This section does not apply to a child
19 placed in accordance with section 232.78, 232.79, or 232.95.

20 Sec. 10. Section 232.46, subsection 1, Code 1981, is
21 amended to read as follows:

22 1. At any time after the filing of a petition and prior
23 to entry of an order of adjudication pursuant to section
24 232.47, the court may suspend the proceedings on motion of
25 the county attorney or the child's counsel, enter a consent
26 decree, and continue the case under terms and conditions
27 established by the court. These terms and conditions may
28 include the supervision of the child by a juvenile probation
29 officer or other agency or person designated by the court
30 and may include the requirement that the child perform a work
31 assignment of value to the state or to the public or make
32 restitution consisting of a monetary payment to the victim
33 or a work assignment directly of value to the victim.

34 Sec. 11. Section 232.47, subsection 2, Code 1981, is
35 amended to read as follows:

1 2. The court shall hear and adjudicate all cases involving
2 a petition alleging a child to have committed a delinquent
3 act. The court shall hold the hearing not later than sixty
4 days from the date the child was taken into custody for the
5 delinquent act, excluding the time required for proceedings
6 under sections 232.29, 232.45, and 232.46. If the hearing
7 is not held within the sixty days, the court shall dismiss
8 the petition unless good cause to the contrary is shown.

9 Sec. 12. Section 232.53, subsection 2, Code 1981, is
10 amended to read as follows:

11 2. All dispositional orders entered prior to the child
12 attaining the age of seventeen years and six months shall
13 automatically terminate when the child becomes eighteen years
14 of age, -except-that-in. Dispositional orders entered
15 subsequent to the child attaining the age of seventeen years
16 and six months and prior to the child's eighteenth birthday
17 shall automatically terminate one year after the date of
18 disposition. In the case of an adult within the jurisdiction
19 of the court under the provisions of section 232.8, subsection
20 1, the dispositional order shall automatically terminate one
21 year after the last date upon which jurisdiction could attach.

22 Sec. 13. Section 232.71, Code 1981, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. If a fourth report is received from the
25 same person who made three earlier unsubstantiated reports
26 which identified the same child as the abused child and the
27 same person responsible for the child as the alleged abuser,
28 the department may determine that the report is spurious,
29 unfounded, or frivolous and may in its discretion terminate
30 its investigation.

31 Sec. 14. Chapter 232, Code 1981, is amended by adding
32 the following new section immediately after section 232.81:

33 NEW SECTION. REMOVAL OF SEXUAL OFFENDERS FROM THE RESIDENCE
34 PURSUANT TO COURT ORDER.

35 1. Notwithstanding section 561.15, if it is alleged that

1 a parent, guardian, custodian, or an adult member of the
2 household in which a child resides has committed a sexual
3 offense with or against the child, pursuant to chapter 709
4 or section 726.2, the juvenile court may enter an ex parte
5 order requiring the alleged sexual offender to vacate the
6 child's residence upon a showing that probable cause exists
7 to believe that the sexual offense has occurred.

8 2. If an order is entered under subsection 1 and a petition
9 has not yet been filed under this chapter, the petition shall
10 be filed under section 232.87 by the county attorney, the
11 department of social services, or a probation officer within
12 three days of the entering of the order.

13 3. The juvenile court may order on its own motion, or
14 shall order upon the request of the alleged sexual offender,
15 a hearing to determine whether the order to vacate the
16 residence should be upheld, modified, or vacated. The juvenile
17 court may in any later child in need of assistance proceeding
18 uphold, modify, or vacate the order to vacate the residence.

19 Sec. 15. Section 232.98, subsection 1, Code 1981, is
20 amended to read as follows:

21 1. A physical or mental examination of the child may be
22 ordered only after the filing of a petition pursuant to section
23 232.87 and after a hearing to determine whether such an
24 examination is necessary to determine the child's physical
25 or mental condition.

26 The hearing required by this section may be held
27 simultaneously with the adjudicatory hearing.

28 An examination ordered prior to the adjudication shall
29 be conducted on an outpatient basis when possible, but if
30 necessary the court may be performed on an outpatient basis
31 only. commit the child to a suitable nonsecure hospital,
32 facility, or institution for the purpose of examination for
33 a period not to exceed fifteen days if all of the following
34 are found to be present:

35 a. Probable cause exists to believe that the child is

1 a child in need of assistance pursuant to section 232.2,
 2 subsection 5, paragraph e or f.

3 b. Commitment is necessary to determine whether there
 4 is clear and convincing evidence that the child is a child
 5 in need of assistance.

6 c. The child's attorney agrees to the commitment.

7 PARAGRAPH DIVIDED. An examination ordered after
 8 adjudication shall be conducted on an outpatient basis whenever
 9 when possible, but if necessary the court may commit the child
 10 to a suitable nonsecure hospital, facility, or institution
 11 for the purpose of examination for a period not to exceed
 12 thirty days. ~~The-civil-commitment-provisions-of-chapter-229~~
 13 ~~shall-not-apply-to-such-commitments-~~

14 The child's parent, guardian, or custodian shall be included
 15 in counseling sessions offered during the child's stay in
 16 a hospital, facility, or institution when feasible, and when
 17 in the best interests of the child and the child's parent,
 18 guardian, or custodian. If separate counseling sessions are
 19 conducted for the child and the child's parent, guardian,
 20 or custodian, a joint counseling session shall be offered
 21 prior to the release of the child from the hospital, facility,
 22 or institution.

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23 Sec. 16. Section 232.148, Code 1981, is amended to read
 24 as follows:

25 232.148 FINGERPRINTS--PHOTOGRAPHS.

26 1. Except as provided in this section, a child shall not
 27 be fingerprinted or photographed by a criminal justice agency
 28 after he-or-she the child is taken into custody and-fingerprint
 29 ~~files-of-children-shall-not-be-inspected-unless-the-juvenile~~
 30 ~~court-waives-its-jurisdiction-over-the-child-so-that-the-child~~
 31 ~~may-be-prosecuted-as-an-adult-for-the-commission-of-a-public~~
 32 offense.

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33 2. Fingerprints and photographs of a child who has been
 34 taken into custody and-who-is-fourteen-years-of-age-or-older
 35 may be taken and filed by a criminal justice agency

1 investigating the commission of a public offense constituting
2 a felony. However, fingerprint and photograph files of a
3 child who enters into an informal adjustment or consent decree
4 shall be retained only if the child is notified at the time
5 of entering into the informal adjustment or consent decree
6 that the files will be permanently retained by the criminal
7 justice agency.

8 3. If a peace officer has reasonable grounds to believe
9 that latent fingerprints found during the investigation of
10 the commission of a public offense are those of a particular
11 child, fingerprints of the child may be taken for immediate
12 comparison with the latent fingerprints regardless of the
13 ~~age-of-the-child-or~~ the nature of the offense. If the
14 comparison is negative the fingerprint card and other copies
15 of the fingerprints taken shall be immediately destroyed.
16 If the comparison is positive and the child is referred to
17 the court, the fingerprint card and other copies of the
18 fingerprints taken shall be delivered to the court for
19 disposition. If the child is not referred to the court, the
20 fingerprint card and copies of the fingerprints shall be
21 immediately destroyed.

22 4. Fingerprint and photograph files of children shall
23 be kept separate from those of adults. Copies of fingerprints
24 and photographs of a child shall not be placed in any data
25 storage system established and maintained by the department
26 of public safety pursuant to chapter 692, or in any federal
27 depository for fingerprints.

28 5. Fingerprint and photograph files of children may be
29 inspected by peace officers when necessary for the discharge
30 of their official duties. The juvenile court may authorize
31 other inspections of such files in individual cases upon a
32 showing that inspection is necessary in the public interest.

33 6. Fingerprints and photographs of a child shall be removed
34 from the file and destroyed if any of the following situations
35 apply:

5451-1 a. A petition alleging the child to be delinquent is not
2 filed, ~~or~~ and the child has not entered into an informal
3 adjustment, admitting involvement in a delinquent act alleged
4 in the complaint.

5452-5 b. After a petition is filed, the petition is dismissed
6 or the proceedings are suspended and the child is found by
7 the court not to be delinquent, or has not entered into a
8 consent decree and has not been adjudicated delinquent on
9 the basis of a delinquent act other than one alleged in the
10 petition in question.

11 c. Upon petition by the child when he ~~or she~~ the child
12 reaches twenty-one years of age and he ~~or she~~ the child has
13 not been adjudicated a delinquent nor convicted of committing
14 an aggravated misdemeanor or a felony after reaching sixteen
15 years of age.

16 ~~7.--A child shall not be photographed by a criminal justice~~
17 ~~agency after he or she is taken into custody without the~~
18 ~~consent of the court unless the court waives jurisdiction~~
19 ~~over the child so that he or she may be prosecuted as an adult~~
20 ~~for the commission of a public offense.~~

21 Sec. 17. Section 232.150, subsection 1, Code 1981, is
22 amended to read as follows:

23 1. Upon application of a person who was taken into custody
24 for a delinquent act or was the subject of a complaint alleging
25 delinquency or was the subject of a delinquency petition,
26 or upon the court's own motion, the court, after hearing,
27 shall order the records in the case including those specified
28 in sections 232.147 and 232.149 sealed if the court finds
29 that all of the following:

30 a. Two years have elapsed since the final discharge of
31 such the person or since the last official action in his ~~or~~
32 her the person's case if there was no adjudication and
33 disposition, and.

34 b. Such The person has not been subsequently convicted
35 of a felony or an aggravated or serious misdemeanor or

1 adjudicated a delinquent child for an act which if committed
2 by an adult would be a felony, an aggravated misdemeanor or
3 a serious misdemeanor and no proceeding is pending seeking
4 such conviction or adjudication.

5 However, if the person was adjudicated delinquent for an
6 offense which if committed by an adult would be an aggravated
7 misdemeanor or a felony, the court shall not order the records
8 in the case sealed unless, upon application of the person
9 or upon the court's own motion and after hearing, the court
10 finds that paragraphs a and b apply and that the sealing is
11 in the best interests of the person and the public.

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HOUSE AMENDMENT TO SENATE AMENDMENT TO HOUSE FILE 2460

S-5664

- 1 Amend amendment H-5834, the Senate amendment to
2 House File 2460, as amended, passed and reprinted
3 by the House, as follows:
4 1. Page 1, by striking lines 5 through 11 and
5 inserting in lieu thereof the following:
6 "Sec. ____ . Section 232.28, subsections 1 and 2,
7 Code 1931, are amended to read as follows:
8 1. Any person having knowledge of the facts may
9 file a complaint with the court or its designee
10 alleging that a child has committed a delinquent act.
11 A written record shall be maintained of any oral
12 complaint received.
13 2. The Court or its designee shall refer the
14 complaint to an intake officer who shall consult with
15 law enforcement authorities having knowledge of the
16 facts and conduct a preliminary inquiry to determine
17 what action should be taken."
18 2. Page 1, by striking lines 14 through 26.
19 3. Page 1, by striking lines 27 through 31.
20 4. Page 2, by striking lines 1 through 3.

S-5664 FILED
APRIL 20, 1982

RECEIVED FROM THE HOUSE

Senate refused to concur 4/21 (p. 1332)
House amended 4/22 (p. 1673)

SENATE AMENDMENT TO HOUSE FILE 2460

n-5834

1 Amend House File 2460 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 2, by inserting after line 22 the
4 following:

5 "Sec. ____ . Section 232.28, subsection 1, Code
6 1981, is amended to read as follows:

7 1. Any person having knowledge of the facts may
8 file a complaint with the court or its designee
9 alleging that a child has committed a delinquent act.
10 A written record shall be maintained of any oral
11 complaint received."

12 2. Page 3, by striking line 34 through page 4,
13 line 8.

14 3. Page 4, by inserting after line 30 the
15 following:

16 "Sec. ____ . Section 232.75, Code 1981, is amended
17 by adding the following new subsection:

18 NEW SUBSECTION. Any person who reports or causes
19 to be reported false information to the department
20 of social services, alleging that a person has abused
21 a child, knowing that the information is false, or
22 who reports the alleged occurrence of child abuse
23 knowing that the child abuse did not occur, is guilty
24 of a simple misdemeanor. The department of social
25 services shall notify the appropriate county attorney
26 of such a report."

27 4. Page 5, line 7, by inserting after the word
28 "occurred" the words "and that the continued presence
29 of the alleged sexual offender in the child's residence
30 presents an imminent danger to the child's life or
31 health".

32 5. Page 6, by inserting after line 22 the
33 following:

34 "Sec. ____ . Section 232.147, subsection 5, Code
35 1981, is amended to read as follows:

36 5. Inspection of social records and disclosure
37 of their contents shall not be permitted except
38 pursuant to court order or unless otherwise provided
39 in this subsection or chapter.

40 If an informal adjustment of a complaint is made
41 pursuant to section 232.29, the intake officer shall
42 disclose to the victim of the delinquent act, upon
43 the request of the victim, the name and address of
44 the child who committed the delinquent act."

45 6. Page 6, by striking line 34, and inserting
46 in lieu thereof the words "taken into custody and
47 who is fourteen years of age or older".

48 7. Title, page 1, line 7, by inserting after the
49 word "release," the words "to require a written record
50 of any oral complaint received,".

H-5834
Page 2

- 1 8. Title, page 1, line 10, by inserting after
- 2 the word "records," the words "to provide a penalty
- 3 for false reports of child abuse,".
- 4 9. Title, page 1, lines 16 and 17, by striking
- 5 the words "to require delinquency adjudicatory hearings
- 6 to be held within sixty days,".
- 7 10. Title, page 2, line 1, by inserting after
- 8 the word "assistance," the words "to provide disclosure
- 9 of certain information to the victim of the delinquent
- 10 act,".
- 11 11. By renumbering as necessary.

H-5834 FILED APRIL 13, 1982 RECEIVED FROM THE SENATE
Adopted as amended 4/15 (p 1511) House amended & concurred 4/15
by 5861

HOUSE FILE 2460

H-5861

- 1 Amend amendment H-5834, the Senate amendment to
- 2 House File 2460, as amended, passed and reprinted by the
- 3 House, as follows:
- 4 1. Page 1, by striking lines 5 through 11 and
- 5 inserting in lieu thereof the following:
- 6 "Sec. ____ Section 232.28, subsections 1 and 2,
- 7 Code 1981, are amended to read as follows:
- 8 1. Any person having knowledge of the facts may
- 9 file a complaint with the court or its designee
- 10 alleging that a child has committed a delinquent act.
- 11 A written record shall be maintained of any oral
- 12 complaint received.
- 13 2. The Court or its designee shall refer the
- 14 complaint to an intake officer who shall consult with
- 15 law enforcement authorities having knowledge of the
- 16 facts and conduct a preliminary inquiry to determine
- 17 what action should be taken."
- 18 2. Page 1, by striking lines 14 through 26.
- 19 3. Page 1, by striking lines 27 through 31.
- 20 4. Page 2, by striking lines 1 through 3.

BY SMALLEY of Polk

H-5861 FILED CONLON of Muscatine DODERER of Johnson
APRIL 14, 1982 MULLINS of Kossuth TRUCANO of Polk
WELSH of Dubuque POFFENBERGER of Dallas
Adopted 4/15 (p 1510-11)

HOUSE FILE 2460

S-5480

- 1 Amend House File 2460 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 3, by striking the words "a-verbat
- 4 an oral or" and inserting in lieu thereof the words
- 5 "a verbat-or".

S-5480 FILED

BY ARTHUR A. SMALL, JR.

APRIL 6, 1982

4/8 4/13 (p 1157)

HOUSE FILE 2460

S-5481

- 1 Amend House File 2460 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 7, by striking lines 2 through 7, and
- 4 inserting in lieu thereof the words "a felony."
- 5 2. Page 8, by striking lines 2 through 4, and
- 6 inserting in lieu thereof the words "filed; or".
- 7 3. Page 8, by striking lines 6 through 10, and
- 8 inserting in lieu thereof the following: "or the child
- 9 is found by the court not to be delinquent; or".

S-5481 FILED

BY JULIA B. GENTLEMAN

APRIL 6, 1982

ROBERT M. CARR

4/8 4/13 (p 1158)

HOUSE FILE 2460

S-5483

- 1 Amend House File 2460 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 5, line 7, by inserting after the word
- 4 "occurred" the words "and that the continued presence
- 5 of the alleged sexual offender in the child's residence
- 6 presents an imminent danger to the child's life or
- 7 health".

S-5483 FILED & ADOPTED

BY DICK RAMSEY

APRIL 6, 1982

Adopted 4/6 (p 1053)

S-5450

1 Amend House File 2460, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 6, by inserting after line 22 the
 4 following:
 5 "Sec. 16. Section 232.147, subsection 5, Code
 6 1981, is amended to read as follows:
 7 5. Inspection of social records and disclosure
 8 of their contents shall not be permitted except
 9 pursuant to court order or unless otherwise provided
 10 in this subsection or chapter.
 11 If an informal adjustment of a complaint is made
 12 pursuant to section 232.29, the intake officer shall
 13 disclose to the victim of the delinquent act, upon
 14 the request of the victim, the name and address of
 15 the child who committed the delinquent act."
 16 2. By renumbering as necessary.

S-5450 FILED

BY BOB RUSH

APRIL 1, 1982

Placed out of order 4/6 (p. 1053)

HOUSE FILE 2460

S-5460

1 Amend House File 2460 as amended. passed and
 2 reprinted by the House, as follows:
 3 1. Page 2, lines 28 and 29, by striking the words
 4 "an aggravated misdemeanor or".
 5 2. Page 4, by inserting after line 30 the
 6 following:
 7 "Sec. ____ . Section 232.75, Code 1981, is amended
 8 by adding the following new subsection:
 9 NEW SUBSECTION. Any person who reports or causes
 10 to be reported false information to the department
 11 of social services, alleging that a person has abused
 12 a child, knowing that the information is false, or
 13 who reports the alleged occurrence of child abuse
 14 knowing that the child abuse did not occur, is guilty
 15 of a simple misdemeanor. The department of social
 16 services shall notify the appropriate county attorney
 17 of such a report."
 18 3. Page 6, by inserting after line 22 the
 19 following:
 20 "Sec. ____ . Section 232.147, subsection 5, Code
 21 1981, is amended to read as follows:
 22 5. Inspection of social records and disclosure
 23 of their contents shall not be permitted except
 24 pursuant to court order or unless otherwise provided
 25 in this subsection or chapter.
 26 If an informal adjustment of a complaint is made
 27 pursuant to section 232.29, the intake officer shall
 28 disclose to the victim of the delinquent act, upon
 29 the request of the victim, the name and address of
 30 the child who committed the delinquent act."
 31 4. Page 6, by striking line 34, and inserting
 32 in lieu thereof the words "taken into custody and
 33 who is fourteen years of age or older".
 34 5. By numbering and renumbering as necessary.

S-5460 FILED

BY COMMITTEE ON JUDICIARY

APRIL 2, 1982

LUCAS J. DeKOSTER, CHAIR

By C. Adopted 4/6 (p. 1053) A. Lost (p. 1052)

HOUSE FILE 2460

S-5490

1 Amend House File 2460, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 21 the
4 following:

5 "Sec. ____ . Section 232.20, subsection 1, Code
6 1981, is amended to read as follows:

7 1. If a child is taken into custody and not
8 released as provided in section 232.19, subsection
9 2, the child shall immediately be taken to a detention
10 or shelter care facility as specified in sections
11 232.21 or 232.22. A written record shall be maintained
12 of the reasons for admission to a detention or shelter
13 care facility."

14 2. Page 2, by inserting after line 22 the
15 following:

16 "Sec. ____ . Section 232.28, subsection 1, Code
17 1981, is amended to read as follows:

18 1. Any person having knowledge of the facts may
19 file a complaint with the court or its designee
20 alleging that a child has committed a delinquent act.
21 A written record shall be maintained of any oral
22 complaint received."

23 3. By numbering and renumbering as necessary.

S-5490 FILED

BY ARTHUR A. SMALL, JR.

APRIL 6, 1982

*A- Lost
B- Adopted 4/13 (p. 1157)*

S-5491

HOUSE FILE 2460

1 Amend House File 2460 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 7, line 3, by striking the words "an
4 informal adjustment or" and inserting in lieu thereof
5 the word "a".

6 2. Page 7, line 5, by striking the words "the
7 informal adjustment or" and inserting in lieu thereof
8 the word "a".

9 3. Page 8, by striking lines 2 through 4, and
10 inserting in lieu thereof the words "filed; or".

S-5491 FILED

BY JULIA B. GENTLEMAN

APRIL 6, 1982

ROBERT M. CARR

BOB RUSH

Lost 4/13 (p. 1158)

HOUSE FILE 2460

S-5560

- 1 Amend House File 2460 as amended, passed and
2 reprinted by the House as follows:
3 1. Page 3, by striking line 34 through page 4,
4 line 8.
5 2. By numbering and renumbering as necessary.

S-5560 FILED & ADOPTED
APRIL 13, 1982 (p. 1153)

BY JOHN S. MURRAY

HOUSE FILE 2460

S-5565

- 1 Amend House File 2460 as amended, passed and
2 reprinted by the House as follows:
3 1. Title, page 1, line 7, by inserting after the
4 word "release," the words "to require a written
5 record of any oral complaint received,".
6 2. Title, page 1, line 10, by inserting after the
7 word "records," the words "to provide a penalty for
8 false reports of child abuse,".
9 3. Title, page 1, lines 16 and 17, by striking the
10 words "to require delinquency adjudicatory hearings
11 to be held within sixty days,".
12 4. Title, page 2, line 1, by inserting after the
13 word "assistance," the words "to provide disclosure
14 of certain information to the victim of the
15 delinquent act,".

S-5565 FILED
APRIL 13, 1982
ADOPTED (p. 1167)

BY JOHN S. MURRAY
JULIA B. GENTLEMAN

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2460

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on House File 2460, a bill for an Act amending the juvenile justice code, respectfully make the following report:

1. That the Senate recede from its amendment, H-5834 to House File 2460 as amended, passed, and reprinted by the House.

2. That the House recede from its amendment S-5664, to the Senate amendment, H-5834, to House File 2460, as amended, passed, and reprinted by the House.

3. That House File 2460 as amended, passed, and reprinted by the House, be amended as follows:

1. Page 2, by inserting after line 22 the following:

"Sec. ____ . Section 232.28, subsections 1 and 2, Code 1981, 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. A written record shall be maintained of any oral complaint received.

2. The Court or its designee shall refer the complaint to an intake officer who shall consult with law enforcement authorities having knowledge of the facts and conduct a preliminary inquiry to determine what action should be taken."

2. Page 3, by striking line 34 through page 4, line 8.

3. Page 4, line 35, by inserting after the word "alleged" the following: "by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion".

4. Page 5, line 7, by inserting after the word "occurred"

April 24, 1982

the words "and that the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health".

5. Page 6, by inserting after line 22 the following:

"Sec. ____ . Section 232.147, subsection 5, Code 1981, is amended to read as follows:

5. Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order or unless otherwise provided in this subsection or chapter.

If an informal adjustment of a complaint is made pursuant to section 232.29, the intake officer shall disclose to the victim of the delinquent act, upon the request of the victim, the name and address of the child who committed the delinquent act."

6. Page 6, by striking line 34, and inserting in lieu thereof the words "taken into custody and who is fourteen years of age or older".

7. Page 9, by inserting after line 11 the following:

"Sec. ____ . Section 708.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Reports or causes to be reported false information to the department of social services, alleging that a person has abused a child, knowing that the information is false, or who reports the alleged occurrence of child abuse knowing that the child abuse did not occur.

8. Title, page 1, line 7, by inserting after the word "release," the words "to require a written record of any oral complaint received,".

9. Title, page 1, line 10, by inserting after the word "records," the words "to provide a penalty for false reports of child abuse,".

10. Title, page 1, lines 16 and 17, by striking the words "to require delinquency adjudicatory hearings to be held within sixty days,".

11. Title, page 2, line 1, by inserting after the word "assistance," the words "to provide disclosure of certain

information to the victim of the delinquent act,".

12. By renumbering as necessary.

ON THE PART OF THE SENATE:

John S. Murray, Chair
Julia B. Gentleman
Dick Ramsey
Bob Rush
C. Joseph Coleman

ON THE PART OF THE HOUSE:

Walter Conlon, Chair
Virginia Poffenberger
Jo Ann Trucano

FILED APRIL 23, 1982

Senate adopted 4/24 (p. 1467)
House adopted 4/24 (p. 1303)

HOUSE FILE 2460

AN ACT

AMENDING THE JUVENILE JUSTICE CODE TO ALLOW CHILDREN SIX-TEEN YEARS OF AGE OR OLDER UNDER CERTAIN CIRCUMSTANCES TO WAIVE REPRESENTATION BY LEGAL COUNSEL WHEN INITIALLY TAKEN INTO CUSTODY, TO ALLOW ORAL COURT ORDERS FOR TEMPORARY PLACEMENTS IN SHELTER CARE OR DETENTION FACILITIES, TO ADD A CROSS-REFERENCE TO A CODE SECTION CONTAINING CONDITIONS OF RELEASE, TO REQUIRE A WRITTEN RECORD OF ANY ORAL COMPLAINT RECEIVED, TO PROVIDE THAT COMPLAINTS OF SERIOUS OFFENSES ALLEGEDLY COMMITTED BY CHILDREN FOURTEEN YEARS OF AGE OR OLDER ARE PUBLIC RECORDS, TO PROVIDE A PENALTY FOR FALSE REPORTS OF CHILD ABUSE, TO PROVIDE FOR VICTIM RESTITUTION UNDER INFORMAL ADJUSTMENTS AND CONSENT DECREES, TO ALLOW NOTICE OF SHELTER CARE OR DETENTION HEARINGS TO BE OTHER THAN PERSONAL NOTICE, TO CLARIFY THAT SHELTER CARE AND DETENTION NOTICE AND HEARING REQUIREMENTS DO NOT APPLY TO TEMPORARY AND EMERGENCY REMOVALS OF CHILDREN IN NEED OF ASSISTANCE, TO ALLOW TERMINATION OF CHILD ABUSE INVESTIGATIONS BY THE DEPARTMENT OF SOCIAL SERVICES, TO AUTHORIZE THE PRESENCE OF A PARENT, GUARDIAN OR CUSTODIAN AT A CHILD'S COUNSELING SESSION, TO DELAY THE AUTOMATIC TERMINATION BEYOND THE AGE OF EIGHTEEN OF CERTAIN DISPOSITIONAL ORDERS, TO PROVIDE FOR THE REMOVAL OF AN ALLEGED SEXUAL OFFENDER FROM A CHILD'S HOUSEHOLD, TO PROVIDE FOR INPATIENT EXAMINATION UNDER CERTAIN CONDITIONS PRIOR TO ADJUDICATION AS A CHILD IN NEED OF ASSISTANCE, TO PROVIDE DISCLOSURE OF CERTAIN INFORMATION TO THE VICTIM OF THE DELINQUENT ACT, TO ALLOW THE TAKING AND FILING OF FINGERPRINTS AND PHOTOGRAPHS OF CHILDREN IN FELONY CASES, TO PROVIDE FOR THE SEALING OF JUVENILE COURT AND LAW ENFORCEMENT RECORDS IN CERTAIN CASES INVOLVING SERIOUS OFFENSES ONLY IF IN THE BEST INTERESTS OF THE CHILD AND THE PUBLIC, AND TO MAKE

NONSUBSTANTIVE, TECHNICAL CHANGES IN THE JUVENILE JUSTICE CODE.

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

Section 1. Section 232.2, subsection 7, Code 1981, is amended to read as follows:

7. "Complaint" means ~~a-verbal~~ an oral or written report which is made to the juvenile court by any person and alleges that a child is within the jurisdiction of the court.

Sec. 2. Section 232.11, subsection 2, Code 1981, is amended to read as follows:

2. The child's right to be represented by counsel under subsection 1, paragraphs "b" to "f" of this section shall not be waived by a child of any age. The child's right to be represented by counsel under subsection 1, paragraph "a" shall not be waived by the a child less than sixteen years of age without the written consent of the child's parent, guardian, or custodian. The waiver by a child who is at least sixteen years of age is valid only if a good faith effort has been made to notify the child's parent, guardian, or custodian that the child has been taken into custody and of the alleged delinquent act for which the child has been taken into custody, the location of the child, and the right of the parent, guardian, or custodian to visit and confer with the child.

Sec. 3. Section 232.21, subsection 4, Code 1981, is amended to read as follows:

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without a an oral or written court order authorizing such the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child

placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c" shall not be held in excess of seventy-two hours in any event.

Sec. 4. Section 232.22, subsection 1, paragraph c, Code 1981, 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~~ ~~or~~ 232.44, subsection 5, paragraph "b", 232.52, or 232.54 and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or

Sec. 5. Section 232.22, subsections 3 and 4, Code 1981, are amended to read as follows:

3. ~~No~~ A child shall not be held in a facility under subsection 2, paragraphs "a" ~~and or~~ "b" for a period in excess of twenty-four hours without a an oral or written court order authorizing ~~such~~ the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

4. ~~No~~ A child shall not be detained in a facility under subsection 2, paragraph "c" for a period in excess of twelve hours without the oral or written order of a judge or a magistrate authorizing ~~such~~ the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

Sec. 6. Section 232.28, subsections 1 and 2, Code 1981, 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. A written record shall be maintained of any oral complaint received.

2. The Court or its designee shall refer the complaint to an intake officer who shall consult with law enforcement

authorities having knowledge of the facts and conduct a preliminary inquiry to determine what action should be taken.

Sec. 7. Section 232.28, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. A complaint filed with the court or its designee pursuant to this section which alleges that a child fourteen years of age or older has committed a delinquent act which if committed by an adult would be an aggravated misdemeanor or a felony shall be a public record and shall not be confidential under section 232.147.

Sec. 8. Section 232.29, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. An informal adjustment agreement may require the child to perform a work assignment of value to the state or to the public or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

Sec. 9. Section 232.44, subsection 3, Code 1981, is amended to read as follows:

3. A notice ~~stating the time, place, and purpose of the hearing~~ shall be served ~~personally~~ upon the child, the child's attorney, the child's guardian ad litem if any, and the child's known parent, guardian, or custodian not less than twenty-four hours before the time the hearing is scheduled to begin and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian, or custodian and that the effort has been unavailing, the hearing may proceed without ~~such~~ the notice having been served.

Sec. 10. Section 232.44, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. This section does not apply to a child placed in accordance with section 232.78, 232.79, or 232.95.

Sec. 11. Section 232.46, subsection 1, Code 1981, is amended to read as follows:

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include the supervision of the child by a juvenile probation officer or other agency or person designated by the court and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

Sec. 12. Section 232.53, subsection 2, Code 1981, is amended to read as follows:

2. All dispositional orders entered prior to the child attaining the age of seventeen years and six months shall automatically terminate when the child becomes eighteen years of age, ~~except that in~~. Dispositional orders entered subsequent to the child attaining the age of seventeen years and six months and prior to the child's eighteenth birthday shall automatically terminate one year after the date of disposition. In the case of an adult within the jurisdiction of the court under the provisions of section 232.8, subsection 1, the dispositional order shall automatically terminate one year after the last date upon which jurisdiction could attach.

Sec. 13. Section 232.71, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If a fourth report is received from the same person who made three earlier unsubstantiated reports which identified the same child as the abused child and the same person responsible for the child as the alleged abuser, the department may determine that the report is spurious, unfounded, or frivolous and may in its discretion terminate its investigation.

Sec. 14. Chapter 232, Code 1981, is amended by adding the following new section immediately after section 232.81:

NEW SECTION. REMOVAL OF SEXUAL OFFENDERS FROM THE RESIDENCE PURSUANT TO COURT ORDER.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, the juvenile court may enter an ex parte order requiring the alleged sexual offender to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense has occurred and that the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of social services, or a probation officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

Sec. 15. Section 232.98, subsection 1, Code 1981, is amended to read as follows:

1. A physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 and after a hearing to determine whether ~~such~~ an examination is necessary to determine the child's physical or mental condition.

The hearing required by this section may be held simultaneously with the adjudicatory hearing.

An examination ordered prior to the adjudication shall be conducted on an outpatient basis when possible, but if necessary the court may ~~be performed on an outpatient basis only~~ commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed fifteen days if all of the following are found to be present:

a. Probable cause exists to believe that the child is a child in need of assistance pursuant to section 232.2, subsection 5, paragraph e or f.

b. Commitment is necessary to determine whether there is clear and convincing evidence that the child is a child in need of assistance.

c. The child's attorney agrees to the commitment.

PARAGRAPH DIVIDED. An examination ordered after adjudication shall be conducted on an outpatient basis whenever when possible, but if necessary the court may commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed thirty days. ~~The civil commitment provisions of chapter 229 shall not apply to such commitments.~~

The child's parent, guardian, or custodian shall be included in counseling sessions offered during the child's stay in a hospital, facility, or institution when feasible, and when in the best interests of the child and the child's parent, guardian, or custodian. If separate counseling sessions are conducted for the child and the child's parent, guardian, or custodian, a joint counseling session shall be offered prior to the release of the child from the hospital, facility, or institution.

Sec. 16. Section 232.147, subsection 5, Code 1981, is amended to read as follows:

5. Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order or unless otherwise provided in this subsection or chapter.

If an informal adjustment of a complaint is made pursuant to section 232.29, the intake officer shall disclose to the victim of the delinquent act, upon the request of the victim, the name and address of the child who committed the delinquent act.

Sec. 17. Section 232.148, Code 1981, is amended to read as follows:

232.148 FINGERPRINTS--PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal justice agency after he or she the child is taken into custody ~~and fingerprint files of children shall not be inspected unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for the commission of a public offense.~~

2. Fingerprints and photographs of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency investigating the commission of a public offense constituting a felony. However, fingerprint and photograph files of a child who enters into an informal adjustment or consent decree shall be retained only if the child is notified at the time of entering into the informal adjustment or consent decree that the files will be permanently retained by the criminal justice agency.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of ~~the age of the child or~~ the nature of the offense. If the comparison is negative the fingerprint card and other copies

of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

4. Fingerprint and photograph files of children shall be kept separate from those of adults. Copies of fingerprints and photographs of a child shall not be placed in any data storage system established and maintained by the department of public safety pursuant to chapter 692, or in any federal depository for fingerprints.

5. Fingerprint and photograph files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

6. Fingerprints and photographs of a child shall be removed from the file and destroyed if any of the following situations apply:

a. A petition alleging the child to be delinquent is not filed, ~~or~~ and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child is found by the court not to be delinquent, or has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question.

c. Upon petition by the child when ~~he or she~~ the child reaches twenty-one years of age and ~~he or she~~ the child has not been adjudicated a delinquent nor convicted of committing an aggravated misdemeanor or a felony after reaching sixteen years of age.

~~7. A child shall not be photographed by a criminal justice agency after he or she is taken into custody without the consent of the court unless the court waives jurisdiction over the child so that he or she may be prosecuted as an adult for the commission of a public offense.~~

Sec. 18. Section 232.150, subsection 1, Code 1981, is amended to read as follows:

1. Upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court, after hearing, shall order the records in the case including those specified in sections 232.147 and 232.149 sealed if the court finds that all of the following:

a. Two years have elapsed since the final discharge of ~~such the~~ person or since the last official action in ~~his or her~~ the person's case if there was no adjudication and disposition, ~~and.~~

b. ~~Such~~ The person has not been subsequently convicted of a felony or an aggravated or serious misdemeanor or adjudicated a delinquent child for an act which if committed by an adult would be a felony, an aggravated misdemeanor or a serious misdemeanor and no proceeding is pending seeking such conviction or adjudication.

However, if the person was adjudicated delinquent for an offense which if committed by an adult would be an aggravated misdemeanor or a felony, the court shall not order the records in the case sealed unless, upon application of the person or upon the court's own motion and after hearing, the court finds that paragraphs a and b apply and that the sealing is in the best interests of the person and the public.

Sec. 19. Section 708.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Reports or causes to be reported false information to the department of social services, alleging

that a person has abused a child, knowing that the information is false, or who reports the alleged occurrence of child abuse knowing that the child abuse did not occur.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2460, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved 5/12, 1982

ROBERT D. RAY
Governor