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FILED FEB 25 1988

H. B. 2278 substituted

SENATE FILE
BY HESTER

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Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the issuance of citations and the detention of
2 juveniles, and providing penalties.

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

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SF 2222

1 Section 1. NEW SECTION. 805.16 CITATIONS TO PERSONS
2 UNDER EIGHTEEN YEARS OF AGE.

3 1. A peace officer shall issue a police citation or
4 uniform citation and complaint, in lieu of making a
5 warrantless arrest, to a person under eighteen years of age
6 accused of committing a simple misdemeanor under chapter 106,
7 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section
8 123.47, or a local ordinance not subject to the jurisdiction
9 of the juvenile court, and shall not detain or confine the
10 person in a facility regulated under chapter 356 or 356A.

11 2. This section does not apply to a person who refuses to
12 sign the citation without qualification, who persists in
13 engaging in the conduct for which the citation was issued, or
14 who constitutes an immediate threat to the person's own safety
15 or the safety of the public.

16 3. For purposes of this section, a person is not detained
17 or confined in a facility if the person is physically
18 accompanied by a peace officer, is not placed in a detention
19 area, and is present in the facility to await transportation,
20 for booking, for implied consent testing, or for other
21 administrative purposes.

22 4. Nothing in this section prohibits the execution of an
23 arrest warrant.

24 Sec. 2. Section 232.8, subsection 1, unnumbered paragraph
25 3, Code Supplement 1987, is amended to read as follows:

26 Violations by a child of provisions of chapter 106, 106A,
27 109, 109A, 110, 110A, 110B, 111, 321, or 321C which would be
28 simple misdemeanors if committed by an adult, and violations
29 of county or municipal curfew or traffic ordinances, and
30 violations by a child of the provisions of section 123.47, are
31 excluded from the jurisdiction of the juvenile court and shall
32 be prosecuted as simple misdemeanors as provided by law. The
33 court may advise appropriate juvenile authorities and may
34 refer violations of section 123.47 to the juvenile court when
35 there is reason to believe the child regularly abuses alcohol

1 and may be in need of treatment. The court shall notify the
2 parents or legal guardians of a child who appears before it
3 for a violation of section 123.47. A child convicted of a
4 violation excluded from the jurisdiction of the juvenile court
5 under this paragraph shall be sentenced pursuant to section
6 805.8, where applicable, and pursuant to section 903.1,
7 subsection 3, for all other violations.

8 Sec. 3. Section 805.1, subsection 8, Code Supplement 1987,
9 is amended by striking the subsection.

10 Sec. 4. Section 903.1, subsection 1, unnumbered paragraph
11 1, Code Supplement 1987, is amended to read as follows:

12 When a person ~~eighteen-years-of-age-or-older~~ is convicted
13 of a simple or serious misdemeanor and a specific penalty is
14 not provided for, the court shall determine the sentence, and
15 shall fix the period of confinement or the amount of fine, if
16 such be the sentence, within the following limits:

17 Sec. 5. Section 903.1, subsection 3, unnumbered paragraph
18 1, Code Supplement 1987, is amended to read as follows:

19 A person under eighteen years of age convicted of a simple
20 misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A,
21 110B, 111, 321, or 321G, section 123.47, or a violation of a
22 county or municipal curfew or traffic ordinance, except for an
23 offense subject to section 805.8, may be required to pay a
24 fine, not to exceed one hundred dollars, as fixed by the
25 court, or may be required to perform community service as
26 ordered by the court.

27

EXPLANATION

28 This bill provides that a peace officer shall issue a
29 citation to a juvenile accused of committing a simple
30 misdemeanor in lieu of making a warrantless arrest, unless the
31 person refuses to sign the citation, persists in engaging in
32 the conduct for which the citation is issued, or constitutes
33 an immediate threat to the person's self or the public. A
34 juvenile may be taken by a peace officer to a jail facility to
35 await transportation, for booking, for implied consent

1 testing, or for other administrative purposes provided that
2 the juvenile is always accompanied by an officer and is not
3 placed in a detention area. The bill provides sentencing
4 procedures for juveniles bound over to district court on
5 simple or serious misdemeanors.

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SENATE FILE 2222

S-5561

1 Amend Senate File 2222 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 232.8, subsection 1, Code
5 Supplement 1987, is amended to read as follows:

6 1. The juvenile court has exclusive original
7 jurisdiction in proceedings concerning a child who is
8 alleged to have committed a delinquent act unless
9 otherwise provided by law, and has exclusive original
10 jurisdiction in proceedings concerning an adult who is
11 alleged to have committed a delinquent act prior to
12 having become an adult, ~~provided that the taking of~~
13 ~~that person into custody for the alleged act or the~~
14 ~~filing of a delinquency petition alleging the~~

15 ~~commission of the act occurs within the time periods~~
16 ~~and under the conditions specified in chapter 802.~~

17 ~~The juvenile court has jurisdiction over such an~~
18 ~~adult for one year beyond the last date upon which~~
19 ~~jurisdiction over the adult attaches under this~~
20 ~~subsection and who has been transferred to the~~
21 jurisdiction of the juvenile court pursuant to an
22 order under section 803.5.

23 Violations by a child of provisions of chapter 106,
24 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G
25 which would be simple misdemeanors if committed by an
26 adult, and violations of county or municipal curfew or
27 traffic ordinances, and violations by a child of the
28 provisions of section 123.47, are excluded from the
29 jurisdiction of the juvenile court and shall be
30 prosecuted as simple misdemeanors as provided by law.
31 The court may advise appropriate juvenile authorities
32 and may refer violations of section 123.47 to the
33 juvenile court when there is reason to believe the
34 child regularly abuses alcohol and may be in need of
35 treatment. The court shall notify the parents or
36 legal guardians of a child who appears before it for a
37 violation of section 123.47. A child convicted of a
38 violation excluded from the jurisdiction of the
39 juvenile court under this paragraph shall be sentenced
40 pursuant to section 805.8, where applicable, and
41 pursuant to section 903.1, subsection 3, for all other
42 violations.

43 Sec. 2. Section 232.22, subsection 2, paragraph c,
44 Code Supplement 1987, is amended to read as follows:

45 c. A room in a facility intended or used for the
46 retention of adults if there is probable cause to
47 believe that the child has committed a delinquent act
48 which if committed by an adult would be a felony, an
49 aggravated misdemeanor, a serious misdemeanor under
50 section 321J.2, subsection 2, section 708.2,

1 subsection 2, section 709.9, section 710.7, or section
2 204.401 involving a controlled substance classified in
3 schedule IV, or a violation of section 123.46, and if
4 all of the following apply:

5 (1) The child is at least sixteen fourteen years
6 of age.

7 (2) The child has shown by the child's conduct,
8 habits, or condition that the child constitutes an
9 immediate and serious danger to another or to the
10 property of another, and a facility or place
11 enumerated in paragraph "a" or "b" is unavailable, or
12 the court determines that the child's conduct or
13 condition endangers the safety of others in the
14 facility.

15 (3) The facility has an adequate staff to
16 supervise and monitor the child's activities at all
17 times.

18 (4) The child is confined in a room entirely
19 separated from detained adults, is confined in a
20 manner which prohibits communication with detained
21 adults, and is permitted to use common areas of the
22 facility only when no contact with detained adults is
23 possible.

24 However, if the child is to be detained for a
25 violation of section 123.46, section 321J.2,
26 subsection 2, or section 709.9 placement in a facility
27 pursuant to this paragraph shall be made only after an
28 attempt has been made to notify the parents or legal
29 guardians of the child and request that the parents or
30 legal guardians take custody of the child. If the
31 parents or legal guardians cannot be contacted, or
32 refuse to take custody of the child, an attempt shall
33 be made to place the child in another facility,
34 including but not limited to a local hospital or
35 shelter care facility. Also, a child detained for a
36 violation of section 123.46, section 321J.2,
37 subsection 2, or section 709.9 pursuant to this
38 paragraph shall only be detained in a facility with
39 adequate staff to provide continuous visual
40 supervision of the child.

41 Sec. 3. Section 232.22, subsection 4, Code
42 Supplement 1987, is amended to read as follows:

43 4. A child shall not be detained in a facility
44 under subsection 2, paragraph "c" for a period of time
45 in excess of six hours without the oral or written
46 order of a judge or a magistrate authorizing the
47 detention. A judge or magistrate may authorize
48 detention in a facility under subsection 2, paragraph
49 "c" for a period of time in excess of six hours but
50 less than twenty-four hours, excluding weekends and

1 legal holidays, but only if all of the following occur
2 or exist:

3 a. The facility serves a geographic area outside a
4 standard metropolitan statistical area as determined
5 by the United States census bureau.

6 b. The court determines that an acceptable
7 alternative placement does not exist pursuant to
8 criteria developed by the department of human
9 services.

10 c. The facility has been certified by the
11 department of corrections as being capable of sight
12 and sound separation pursuant to this section and
13 356.3.

14 d. The child is awaiting an initial hearing before
15 the court pursuant to section 232.44.

16 Except for paragraph "c" of this subsection, the
17 restrictions contained in this subsection relating to
18 the detention of a child in a facility under
19 subsection 2, paragraph "c" do not apply if the court
20 has waived its jurisdiction over the child for the
21 alleged commission of a felony offense pursuant to
22 section 232.45.

23 Sec. 4. Section 803.1, Code 1987, is amended by
24 adding the following new subsection:

25 NEW SUBSECTION. 4. The jurisdiction of the
26 criminal court includes the prosecution of any
27 individual arrested who is eighteen years of age or
28 older and who is charged with committing a criminal
29 offense. If the individual is alleged to have
30 committed the offense prior to having reached the age
31 of eighteen, that individual or the county attorney
32 may petition the criminal court to transfer the matter
33 to juvenile court, pursuant to section 803.5.

34 Sec. 5. NEW SECTION. 803.5 TRANSFER OF
35 JURISDICTION.

36 1. An adult who is alleged to have committed a
37 criminal offense prior to having reached the age of
38 eighteen may be transferred to juvenile court for
39 adjudication and disposition as a juvenile, provided
40 that the taking of that person into custody for the
41 alleged act or the filing of a complaint, information,
42 or indictment alleging the act, occurs within the time
43 periods and under the conditions specified in chapter
44 802.

45 2. The defendant or the county attorney may file a
46 motion for the transfer any time within ten days of
47 the initial appearance.

48 3. The court shall hold a transfer hearing on all
49 such motions. A notice of the time and place of the
50 transfer hearing shall be given to all parties to the

1 hearing.

2 4. Prior to the transfer hearing, the juvenile
3 probation officer, or other person or agency
4 designated by the court, shall conduct an
5 investigation for the purpose of collecting
6 information relevant to the court's decision to waive
7 its jurisdiction over the defendant for the alleged
8 commission of the public offense and shall submit a
9 report concerning the investigation to the court. The
10 report shall include any recommendations made
11 concerning transfer. Prior to the hearing the court
12 shall provide the defendant's counsel and the county
13 attorney with access to the report and to all written
14 material to be considered by the court.

15 5. After the hearing, the court may transfer
16 jurisdiction to the juvenile court if the court
17 determines that there is probable cause to believe
18 that the adult committed an offense while still a
19 juvenile, and waiver to the criminal court would be
20 inappropriate under the criteria set forth in section
21 232.45, subsection 6, paragraph "c", and section
22 232.45, subsection 7, if the adult were still a child.

23 6. If after the hearing the court transfers
24 jurisdiction over the adult to the juvenile court for
25 the alleged commission of the public offense to the
26 juvenile court, the court shall forward the transfer
27 order together with all papers, documents, and a
28 transcript of all testimony filed or admitted into
29 evidence in connection with the case to the clerk of
30 the juvenile court in the same manner as provided in
31 section 232.8, subsection 2.

32 Sec. 6. Section 805.1, subsection 8, Code
33 Supplement 1987, is amended by striking the
34 subsection.

35 Sec. 7. NEW SECTION. 805.16 CITATIONS TO PERSONS
36 UNDER EIGHTEEN YEARS OF AGE.

37 1. Except as provided in subsection 2 of this
38 section, a peace officer shall issue a police citation
39 or uniform citation and complaint, in lieu of making a
40 warrantless arrest, to a person under eighteen years
41 of age accused of committing a simple misdemeanor
42 under chapter 106, 106A, 109, 109A, 110, 110A, 110B,
43 111, 321, or 321G, section 123.47, or a local
44 ordinance not subject to the jurisdiction of the
45 juvenile court, and shall not detain or confine the
46 person in a facility regulated under chapter 356 or
47 356A.

48 2. A person under the age of eighteen who refuses
49 to sign the citation without qualification, who
50 persists in engaging in the conduct for which the

1 citation was issued, who refuses to provide proper
2 identification or to identify the person's self, or
3 who constitutes an immediate threat to the person's
4 own safety or the safety of the public may be arrested
5 in the manner provided in subsection 3. In addition,
6 or alternatively, the peace officer may require that
7 person to surrender the person's motor vehicle
8 operator's license until the time of the person's
9 initial court appearance. The peace officer shall
10 immediately send the person's operator's license along
11 with a copy of the unsigned citation indicating the
12 juvenile's refusal to sign to the clerk of the
13 district court for the district in which the peace
14 officer issued the citation.

15 3. A person arrested pursuant to subsection 2
16 shall only be arrested for the limited purpose of
17 holding the person in nonsecure custody in an area not
18 intended for secure detention while awaiting transfer
19 to an appropriate juvenile facility or to court, for
20 booking, for implied consent testing, for contacting
21 and release to the person's parents, or for other
22 administrative purposes.

23 For purposes of this subsection, "nonsecure
24 custody" means custody in an unlocked multipurpose
25 area, such as a lobby, office, or interrogation room
26 which is not designed, set aside, or used as a secure
27 detention area, and the person arrested is not
28 physically secured during the period of custody in the
29 area, the person is physically accompanied by a peace
30 officer or a person employed by the facility where the
31 person arrested is being held, and the use of the area
32 is limited to providing nonsecure custody only long
33 enough for the purposes stated in the preceding
34 paragraph and not for a period of time in excess of
35 six hours without the oral or written order of a judge
36 or magistrate authorizing the detention. A judge
37 shall not extend the period of time in excess of six
38 hours beyond the initial six-hour period.

39 4. This section does not prohibit the execution of
40 an arrest warrant by a peace officer.

41 Sec. 8. Section 903.1, subsection 1, unnumbered
42 paragraph 1, Code Supplement 1987, is amended to read
43 as follows:

44 When a person eighteen-years-of-age-or-older is
45 convicted of a simple or serious misdemeanor and a
46 specific penalty is not provided for, the court shall
47 determine the sentence, and shall fix the period of
48 confinement or the amount of fine, if such be the
sentence, within the following limits:

Sec. 9. Section 903.1, subsection 3, unnumbered

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1 paragraph 1, Code Supplement 1987, is amended to read
2 as follows:

3 A person under eighteen years of age convicted of a
4 simple misdemeanor under chapter 106, 106A, 109, 109A,
5 110, 110A, 110B, 111, 321, or 321G, section 123.47, or
6 a violation of a county or municipal curfew or traffic
7 ordinance, except for an offense subject to section
8 805.8, may be required to pay a fine, not to exceed
9 one hundred dollars, as fixed by the court, or may be
10 required to perform community service as ordered by
11 the court."

12 2. Title page, by striking lines 1 and 2 and
13 inserting the following: "An Act relating to the
14 issuance of citations to juveniles, the detention of
15 juveniles and restrictions on the detention of
16 juveniles in adult facilities, and providing
17 penalties."

S-5561

Filed March 25, 1988

ADOPTED

BY JACK HESTER

(3/25)