

FILED MAR 01 1989  
*Judiciary*

SENATE FILE 316  
BY BRUNER

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to juvenile justice provisions for termination of  
2 parental rights, child abuse, and foster care.

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

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*SF 316*

1 Section 1. Section 232.2, subsection 1, Code 1989, is  
2 amended to read as follows:

3 1. "Abandonment of a child" means the permanent  
4 relinquishment or surrender, without reference to any  
5 particular person, of the parental rights, duties, or  
6 privileges inherent in the parent-child relationship. Proof  
7 of abandonment must include both the intention to abandon and  
8 the acts by which the intention is evidenced. The term does  
9 not require that the relinquishment or surrender be over any  
10 particular period of time. However, the term includes but is  
11 not limited to a situation in which reasonable efforts over a  
12 two-month period of time to locate a child's parent are shown  
13 to be unsuccessful and a situation in which it is shown that a  
14 child's parent has displayed gross or extreme parental  
15 disinterest in the child during a reasonable period of time.

16 Sec. 2. Section 232.2, Code 1989, is amended by adding the  
17 following new subsection:

18 NEW SUBSECTION. 21A. "Imminent risk to a child's life or  
19 health" means a substantial risk of harm to a child and  
20 includes but is not limited to a situation in which a child,  
21 by action of another person, has suffered or is likely to  
22 suffer any of the following occurrences and the child's safety  
23 cannot be assured:

- 24 a. A life threatening or permanently disabling event.
- 25 b. Abandonment.
- 26 c. Adult human bite marks.
- 27 d. Choking.
- 28 e. Head trauma.
- 29 f. Involuntary confinement or injury from confinement.
- 30 g. Multiple cigarette burns.
- 31 h. Multiple inflicted bruises or lacerations.
- 32 i. Poisoning.
- 33 j. Second or third degree burns.
- 34 k. Sexual abuse.
- 35 l. Shooting.

1 m. Skeletal fracture.

2 n. Stabbing.

3 o. Terrorism.

4 Sec. 3. Section 232.71, Code 1989, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. 17. In each county or multicounty area in  
7 which more than fifty child abuse reports are made per year,  
8 the department shall establish a multidisciplinary team to  
9 assist the department. The multidisciplinary team shall  
10 assist the department in the assessment, diagnosis, and  
11 disposition of a child abuse report and shall be notified by  
12 the department to review any founded case of child abuse. A  
13 multidisciplinary team is required to include members  
14 representing professions relating to health, mental health,  
15 child development, and law, and members representing the  
16 community.

17 Sec. 4. Section 232.78, subsection 1, Code 1989, is  
18 amended to read as follows:

19 1. The juvenile court may enter an ex parte order  
20 directing a peace officer to ~~remove a child from the child's~~  
21 ~~home or a child day care facility~~ take custody of a child  
22 before or after the filing of a petition under this chapter  
23 provided ~~all~~ both of the following apply:

24 ~~a. The parent, guardian, legal custodian, or employee of~~  
25 ~~the child day care facility is absent, or though present, was~~  
26 ~~asked and refused to consent to the removal of the child and~~  
27 ~~was informed of an intent to apply for an order under this~~  
28 ~~section, or the parent, guardian, or legal custodian has a~~  
29 ~~prior instance of flight to avoid a child abuse investigation.~~

30 b a. It appears that the child's immediate removal is  
31 necessary to avoid imminent danger risk to the child's life or  
32 health.

33 e b. There is not enough time to file a petition and hold  
34 a hearing under section 232.95.

35 Sec. 5. Section 232.79, subsection 1, unnumbered paragraph

1 1 and paragraph a, Code 1989, are amended to read as follows:

2 A peace officer may ~~remove a child from the child's home or~~  
3 ~~a child-day-care-facility~~ take a child into custody or a  
4 physician treating a child may keep the child in custody  
5 without a court order as required under section 232.78 and  
6 without the consent of a parent, guardian, or custodian  
7 provided that both of the following apply:

8 a. The child is in such a circumstance or condition that  
9 ~~the child's continued presence in the residence or the child~~  
10 ~~day-care-facility or in the care or custody of the parent,~~  
11 ~~guardian, or custodian~~ presents an imminent danger risk to the  
12 child's life or health.

13 Sec. 6. Section 232.102, subsection 4, Code 1989, is  
14 amended to read as follows:

15 4. Whenever possible the court should permit the child to  
16 remain at home with the child's parent, guardian, or  
17 custodian. Custody of the child should not be transferred  
18 unless the court finds there is clear and convincing evidence  
19 that either of the following conditions exist:

20 a. The child cannot be protected from physical abuse  
21 without transfer of custody ~~or.~~

22 b. The child cannot be protected from some harm which  
23 would justify the adjudication of the child as a child in need  
24 of assistance and an adequate placement is available.

25 The order shall ~~in addition,~~ contain a statement that  
26 removal from the home is the result of a determination that  
27 continuation ~~therein~~ in the home would be contrary to the  
28 welfare of the child, and that reasonable efforts have been  
29 made to prevent or eliminate the need for removal of the child  
30 from the child's home, and that the removal proceedings may  
31 result in a termination of parental rights.

32 Sec. 7. Section 232.102, subsection 6, Code 1989, is  
33 amended to read as follows:

34 6. In any order transferring custody to the department or  
35 an agency, or in orders pursuant to a custody order, the court

1 shall specify the nature and category of disposition which  
2 will serve the best interests of the child, and shall  
3 prescribe the means by which the placement shall be monitored  
4 by the court. If the court orders the transfer of the custody  
5 of the child to the department of human services or other  
6 agency for placement, the department or agency shall submit a  
7 case permanency plan to the court and shall make every-effort  
8 reasonable efforts to return the child to the child's home as  
9 quickly as possible consistent with the best interest  
10 interests of the child. ~~When~~ If the child is not returned to  
11 the child's home and if the child has been previously placed  
12 in a licensed foster care facility, the department or agency  
13 shall consider placing the child in the same licensed foster  
14 care facility. If the court orders the transfer of custody to  
15 a relative or other suitable person, the court may direct the  
16 department or other agency to provide services to the child's  
17 parent, guardian, or custodian in order to enable them to  
18 resume custody of the child. If the court orders the transfer  
19 of custody to the department of human services or to another  
20 agency for placement in foster group care, the department or  
21 agency shall make every reasonable effort to place the child  
22 within Iowa, in the least restrictive setting available, and  
23 in close proximity to the parents' home, consistent with the  
24 child's best interests and special needs.

25 Sec. 8. Section 232.104, subsection 1, unnumbered  
26 paragraph 2, Code 1989, is amended to read as follows:

27 ~~Such-a~~ A permanency hearing may be held concurrently with a  
28 hearing to review, modify, substitute, vacate, or terminate a  
29 dispositional order. Reasonable notice of a permanency  
30 hearing in a case of juvenile delinquency shall be provided  
31 pursuant to section 232.37. A permanency hearing shall be  
32 conducted in substantial conformance with the provisions of  
33 section 232.99. During the hearing the court shall consider  
34 the child's need for a secure and permanent placement in light  
35 of any permanency plan or evidence submitted to the court. If

1 the child has been placed with a foster parent for a period of  
2 at least twelve months, the foster parent has a right to  
3 provide testimony regarding the contacts of the child's parent  
4 with the child and efforts at reunification. Upon completion  
5 of the hearing the court shall enter written findings and make  
6 a determination based upon the permanency plan which will best  
7 serve the child's individual interests at that time.

8 Sec. 9. Section 232.111, subsection 3, paragraph b, Code  
9 1989, is amended by adding the following new subparagraph:

10 NEW SUBPARAGRAPH. (7) Foster parent with whom the child  
11 has been placed for at least twelve of the last eighteen  
12 months.

13 Sec. 10. Section 232.116, subsection 1, paragraph c, Code  
14 1989, is amended by striking the paragraph and inserting in  
15 lieu thereof the following:

16 c. The court finds that both of the following have  
17 occurred:

18 (1) The court has previously adjudicated the child to be a  
19 child in need of assistance after finding the child to have  
20 been physically or sexually abused or neglected as the result  
21 of the acts or omissions of one or both parents, or the court  
22 has previously adjudicated a child who is a member of the same  
23 family to be a child in need of assistance after such a  
24 finding.

25 (2) Subsequent to the child in need of assistance  
26 adjudication, the parents were offered or received services to  
27 correct the circumstance which led to the adjudication, and  
28 the child is found to have been subsequently physically or  
29 sexually abused or neglected as the result of the acts or  
30 omissions of one or both parents.

31 Sec. 11. Section 232.116, subsection 1, paragraph d, Code  
32 1989, is amended to read as follows:

33 d. The court finds that all of the following have  
34 occurred:

35 (1) The child has been adjudicated a child in need of

1 assistance pursuant to section 232.96.

2 (2) The custody of the child has been transferred from the  
3 child's parents for placement pursuant to section 232.102 and  
4 the placement has lasted for a period of at least six  
5 consecutive months.

6 ~~(3) -- There is clear and convincing evidence that the child~~  
7 ~~cannot be returned to the custody of the child's parents as~~  
8 ~~provided in section 232.102.~~

9 (4 3) There is clear and convincing evidence that the  
10 parents have not maintained significant and meaningful contact  
11 with the child during the previous six consecutive months and  
12 have made no reasonable efforts to resume care of the child  
13 despite being given the opportunity to do so.

14 Sec. 12. Section 232.116, subsection 1, paragraph e, Code  
15 1989, is amended to read as follows:

16 e. The court finds that all of the following have  
17 occurred:

18 (1) The child is four years of age or older.

19 ~~(2)~~ 2) The child has been adjudicated a child in need of  
20 assistance pursuant to section 232.96.

21 ~~(2)~~ 3) The custody of the child has been transferred from  
22 the child's parents for placement pursuant to section 232.102  
23 for at least twelve of the last eighteen months.

24 ~~(3)~~ 4) There is clear and convincing evidence that the  
25 child cannot be returned to the custody of the child's parents  
26 as provided in section 232.102.

27 Sec. 13. Section 232.116, subsection 1, paragraph f,  
28 subparagraph (3), Code 1989, is amended by striking the  
29 subparagraph.

30 Sec. 14. Section 232.116, subsection 1, Code 1989, is  
31 amended by adding the following new paragraphs:

32 NEW PARAGRAPH. g. The court finds that all of the  
33 following have occurred:

34 (1) The child is three years of age or younger.

35 (2) The child has been adjudicated a child in need of

1 assistance pursuant to section 232.96.

2 (3) The custody of the child has been transferred from the  
3 child's parents for placement pursuant to section 232.102 for  
4 the last six consecutive months or for at least six months of  
5 the last twelve months. However, a trial period at home of  
6 less than thirty days shall not be considered under this  
7 subsection.

8 (4) There is clear and convincing evidence that the child  
9 cannot be returned to the custody of the child's parents as  
10 provided in section 232.102 at the present time.

11 NEW PARAGRAPH. h. The court finds that both of the  
12 following have occurred:

13 (1) The child meets the definition of child in need of  
14 assistance based on a finding of physical or sexual abuse or  
15 neglect as a result of the acts or omissions of one or both  
16 parents.

17 (2) There is clear and convincing evidence that the abuse  
18 or neglect of the child is so severe, extreme, or repeated  
19 that provision of services would present an unacceptable risk  
20 to the child.

21 NEW PARAGRAPH. i. The court finds that both of the  
22 following have occurred:

23 (1) The child has been adjudicated a child in need of  
24 assistance pursuant to section 232.96 and custody has been  
25 transferred from the child's parents for placement pursuant to  
26 section 232.102.

27 (2) The parent has been imprisoned for a felony or a crime  
28 against the child, the child's sibling, or another child in  
29 the household, or the parent has been imprisoned and it is  
30 unlikely that the parent will be released from prison for a  
31 period of five or more years.

32 NEW PARAGRAPH. j. The court finds that all of the  
33 following have occurred:

34 (1) The child has been adjudicated a child in need of  
35 assistance pursuant to section 232.96 and custody has been

1 transferred from the child's parents for placement pursuant to  
2 section 232.102.

3 (2) The parent has a chronic mental illness and has been  
4 repeatedly institutionalized.

5 (3) There is clear and convincing evidence that the  
6 parent's prognosis indicates that the child will not be able  
7 to be returned to the custody of the parent within a  
8 reasonable period of time considering the child's age and need  
9 for a permanent home.

10 NEW PARAGRAPH. k. The court finds that all of the  
11 following have occurred:

12 (1) The child has been adjudicated a child in need of  
13 assistance pursuant to section 232.96 and custody has been  
14 transferred from the child's parents for placement pursuant to  
15 section 232.102.

16 (2) The parent has a severe, chronic substance abuse  
17 problem.

18 (3) There is clear and convincing evidence that the  
19 parent's prognosis indicates that the child will not be able  
20 to be returned to the custody of the parent within a  
21 reasonable period of time considering the child's age and need  
22 for a permanent home.

23 Sec. 15. Section 232.116, subsection 2, unnumbered  
24 paragraph 1, Code 1989, is amended to read as follows:

25 In considering whether to terminate the rights of a parent  
26 under this section, the court shall give primary consideration  
27 to the physical, mental, and emotional condition and needs of  
28 the child. ~~Such consideration may include,~~ including but not  
29 limited to any of the following:

30 Sec. 16. Section 232.116, subsection 3, Code 1989, is  
31 amended by adding the following new paragraphs:

32 NEW PARAGRAPH. f. A secure and appropriate placement is  
33 available to the child without terminating the relationship  
34 between the parent and child.

35 NEW PARAGRAPH. g. It is in the best interest of the

1 child.

2 Sec. 17. Section 232.117, Code 1989, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 8. If the court orders the termination of  
5 parental rights and transfers guardianship and custody under  
6 subsection 3 based upon grounds for termination of parental  
7 rights specified under section 232.116, subsection 1,  
8 paragraph "i", "j", or "k", or the child's parent having  
9 mental retardation has been a contributing factor, the court  
10 may provide for visitation between the child and the child's  
11 natural parent.

12 Sec. 18. Section 237.18, subsection 2, paragraph b, Code  
13 1989, is amended by adding the following new subparagraphs:

14 NEW SUBPARAGRAPH. (4) The number of children placed in  
15 foster care pursuant to section 232.102 who receive a case  
16 permanency hearing under section 232.104 within eighteen  
17 months of placement in foster care.

18 NEW SUBPARAGRAPH. (5) The number of children who have  
19 been placed in foster care pursuant to section 232.102 for a  
20 period of time longer than six, twelve, and eighteen months  
21 and have a case permanency plan goal of terminating parental  
22 rights pursuant to section 232.111, transfer of guardian and  
23 custody for adoption pursuant to section 232.117, or other  
24 permanent placement.

25 NEW SUBPARAGRAPH. (6) The time periods required for  
26 judicial resolution of a petition for termination of parental  
27 rights filed under section 232.111 and a listing of the  
28 outcomes of the petitions filed.

29 Sec. 19. Section 600A.2, subsection 16, Code 1989, is  
30 amended to read as follows:

31 16. "To abandon a minor child" means to **permanently**  
32 relinquish or surrender, without reference to any particular  
33 person, the parental rights, duties, or privileges inherent in  
34 the parent-child relationship. The term includes both the  
35 intention to abandon and the acts by which the intention is

1 evidenced. The term does not require that the relinquishment  
2 or surrender be over any particular period of time.

3 EXPLANATION

4 This bill relates to termination of parental rights and  
5 foster care provisions of the juvenile justice chapter and  
6 related chapters.

7 The definition of "abandonment of a child" is amended to  
8 remove the requirement that abandonment be permanent and to  
9 add a two-month time period of unsuccessful search for a  
10 parent or parents or a showing that a parent or parents have  
11 displayed gross or extreme disinterest in the child over a  
12 reasonable period of time.

13 A new definition of "imminent risk to a child's life or  
14 health" enumerates certain specific acts of child abuse which  
15 a child has suffered or is likely to suffer in cases where the  
16 child's safety cannot be assured.

17 A multidisciplinary team is required to be established by  
18 the department of human services in each county or multicounty  
19 area in which there are 50 or more child abuse reports per  
20 year. The team is to assist the department in assessment,  
21 diagnosis, and disposition relating to child abuse reports and  
22 to review cases in which the court finds abuse has occurred.  
23 Professionals in occupations pertaining to children and  
24 members of the public are specified to be members of a team.

25 A provision is stricken which required certain procedures  
26 relating to notification and consent of persons with authority  
27 over a child when an ex parte order to temporarily remove the  
28 child is requested, time is limited, and the child's health or  
29 life is threatened. The term "imminent danger" in the  
30 standard for removal is changed to "imminent risk". A related  
31 provision permitting a peace officer or a physician treating  
32 the child to remove the child to ensure the child's safety is  
33 amended by changing the term "remove" to "custody" and  
34 striking limitations on locations from which the child may be  
35 removed.

1 After a dispositional hearing to transfer legal custody of  
2 a child, an order is required to contain a statement that the  
3 proceedings may result in a termination of parental rights.  
4 When custody is transferred to the department of human  
5 services, the current requirement to make "every effort" to  
6 return the child to the child's home is amended to be  
7 "reasonable efforts".

8 The provision for a hearing to establish permanency for a  
9 child is amended to provide that an interested party who can  
10 provide testimony at the hearing includes the child's foster  
11 parent if the child has been placed with the foster parent for  
12 at least 12 months. A foster parent who has had the child's  
13 placement for at least 12 of the last 18 months is required to  
14 be listed on a petition for termination of parental rights and  
15 is entitled to receive notice and an opportunity to be heard.

16 Grounds for termination of parental rights when physical or  
17 sexual abuse of the child has been found are amended by adding  
18 neglect to the standard and the requirement for clear and  
19 convincing evidence that the parents either refused services  
20 to correct the abusive situation or the services failed to  
21 correct the situation is replaced by a showing that services  
22 were offered or received and abuse and neglect has occurred  
23 again.

24 Grounds for termination of parental rights when the child  
25 has been adjudicated as a CINA, custody of the child has been  
26 transferred for more than six months, and the parents have not  
27 maintained contact for six months are amended. The parental  
28 contact standard is narrowed to require "significant and  
29 meaningful contact" and a requirement for clear and convincing  
30 evidence that the child cannot be returned to the custody of  
31 the child's parents is stricken.

32 Grounds for termination of parental rights when the child  
33 has been adjudicated as a CINA, custody of the child has been  
34 transferred from the parents for at least 12 of the preceding  
35 18 months, and there is clear and convincing evidence that the

1 child cannot be returned to the parents are amended to require  
2 that the child be at least four years of age.

3 Grounds for termination of parental rights when the child  
4 has been adjudicated as a CINA, the court previously  
5 terminated parental rights for a child who is a member of the  
6 same family, and there is clear and convincing evidence that  
7 the parent does not or cannot respond to corrective services  
8 and permitting additional time would not correct the situation  
9 are amended by striking the requirement that there be clear  
10 and convincing evidence that the child cannot be returned or  
11 placed in the custody of the child's parents.

12 Additional grounds for termination of parental rights are  
13 provided. Parental rights would be terminated if the child  
14 has been adjudicated as a CINA, is less than four years old,  
15 has been placed away from the parents for the last six months  
16 or six of the last twelve months, except for trial home visits  
17 of less than 30 days, and there is clear and convincing  
18 evidence that the child cannot be returned to the parents  
19 custody; if the child meets the criteria to be found a CINA  
20 based on a finding of physical or sexual abuse or neglect and  
21 there is clear and convincing evidence that the abuse or  
22 neglect is so severe, extreme, or repeated that providing  
23 corrective services would be an unacceptable risk to the  
24 child; if the child has been adjudicated as a CINA and custody  
25 transferred, and the parent has been imprisoned for a felony  
26 or a crime against the child or another child in the household  
27 or the parent is imprisoned and is unlikely to be released for  
28 five years or more; if the child has been adjudicated as a  
29 CINA and custody transferred, the parent has a chronic mental  
30 illness and has been repeatedly institutionalized, and there  
31 is clear and convincing evidence that the parent's prognosis  
32 will not permit the child's return within a reasonable period  
33 of time; if the child has been adjudicated as a CINA and  
34 custody transferred, the parent has a severe, chronic  
35 substance abuse problem, and there is clear and convincing

1 evidence that a parent's prognosis indicates that the child  
2 cannot return to the parent within a reasonable period of  
3 time.

4 Additional reasons for not terminating parental rights are  
5 provided when the court finds that a secure and appropriate  
6 placement is available without terminating parental rights or  
7 that not terminating parental rights is in the best interests  
8 of the child.

9 If parental rights are terminated for reasons related to  
10 the parent's mental illness or retardation, substance abuse,  
11 or length of prison term, the court may provide for visitation  
12 between the child and the child's natural parent.

13 The state foster care review board is required to annually  
14 collect and include in the board's annual report information  
15 regarding time periods connected to case permanency hearings,  
16 case permanency plans, and periods of time required for  
17 resolution of petitions for termination of parental rights.

18 The definition of the term "to abandon a minor child" in  
19 the termination of parental rights chapter (chapter 600A) is  
20 amended to strike the requirement that the relinquishment of  
21 parental rights, duties, or privileges be permanent.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35