

H. 3/12/96 Judiciary
H. 3/25/96 Amend/Do Pass
w/H. 5549

FILED MAR 4 1996

SENATE FILE 2420
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2197)

Passed Senate, Date 3-11-96 (P.714) Passed House, Date 4/3/96 (P.1339)
Vote: Ayes 49 Nays 0 Vote: Ayes 99 Nays 0

Approved 4/18/96
(P.1251) Passed 4-8-96 Vote 48-0 Passed 4-9-96 (P.1477) Vote 95-0

A BILL FOR

1 An Act relating to juvenile justice, including dispositional
2 alternatives for juveniles adjudicated delinquent, registering
3 with the sex offender registry, and associate juvenile judge
4 jurisdiction.

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

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S.F. 2420

1 Section 1. Section 232.8, subsection 1, paragraph c, Code
2 Supplement 1995, is amended to read as follows:

3 c. Violations by a child, age sixteen or older, which
4 subject the child to the provisions of section 124.401,
5 subsection 1, paragraph "e" or "f", or violations of section
6 723A.2 which involve a violation of chapter 724, or violation
7 of chapter 724 which constitutes a felony, or violations which
8 constitute a forcible felony are excluded from the
9 jurisdiction of the juvenile court and shall be prosecuted as
10 otherwise provided by law unless the court transfers
11 jurisdiction of the child to the juvenile court upon motion
12 and for good cause. A child over whom jurisdiction has not
13 been transferred to the juvenile court, and who is convicted
14 of a violation excluded from the jurisdiction of the juvenile
15 court under this paragraph, shall be sentenced pursuant to
16 section 124.401B, 902.9, or 903.1. Notwithstanding any other
17 provision of the Code to the contrary, the court may accept
18 from a child a plea of guilty, or may instruct the jury on a
19 lesser included offense to the offense excluded from the
20 jurisdiction of the juvenile court under this section in the
21 same manner as regarding an adult.

22 Sec. 2. Section 232.52, subsection 2, paragraph c, Code
23 Supplement 1995, is amended by adding the following new
24 subparagraph:

25 NEW SUBPARAGRAPH. (3) For a child placed in a supervised
26 community treatment program established pursuant to section
27 232.191, subsection 4, providing up to thirty days placement
28 in group foster care as ordered by the chief juvenile court
29 officer or the officer's designee, for failure to comply with
30 the terms and conditions of the supervised community treatment
31 program. The court shall be notified of a temporary group
32 foster care placement under this section the next business day
33 after the placement is made.

34 Sec. 3. Section 232.52, subsection 2, paragraph e,
35 subparagraph (4), Code Supplement 1995, is amended to read as

1 follows:

2 (4) The child has previously been placed in a treatment
3 facility outside the child's home or in a supervised community
4 treatment program established pursuant to section 232.191,
5 subsection 4.

6 Sec. 4. Section 236.8, Code Supplement 1995, is amended to
7 read as follows:

8 236.8 VIOLATION OF ORDER -- CONTEMPT -- PENALTIES --
9 HEARINGS.

10 A person commits a simple misdemeanor or the court may hold
11 a person in contempt for a violation of an order or court-
12 approved consent agreement entered under this chapter, for
13 violation of a temporary or permanent protective order or
14 order to vacate the homestead under chapter 598, ~~or~~ for
15 violation of any order that establishes conditions of release
16 or is a protective order or sentencing order in a criminal
17 prosecution arising from a domestic abuse assault, or for
18 violation of a protective order under chapter 232. If
19 convicted or held in contempt, the defendant shall serve a
20 jail sentence. Any jail sentence of more than one day imposed
21 under this section shall be served on consecutive days. A
22 defendant who is held in contempt or convicted may be ordered
23 by the court to pay the plaintiff's attorneys fees and court
24 costs incurred in the proceedings under this section.

25 A hearing in a contempt proceeding brought pursuant to this
26 section shall be held not less than five and not more than
27 fifteen days after the issuance of a rule to show cause, as
28 set by the court.

29 A person shall not be convicted of and held in contempt for
30 the same violation of an order or court-approved consent
31 agreement entered under this chapter, for the same violation
32 of a temporary or permanent protective order or order to
33 vacate the homestead under chapter 598, ~~or~~ for violation of
34 any order that establishes conditions of release or is a
35 protective order or sentencing order in a criminal prosecution

1 arising from a domestic abuse assault, or for violation of a
2 protective order under chapter 232.

3 Sec. 5. Section 236.11, unnumbered paragraphs 1 and 2,
4 Code 1995, are amended to read as follows:

5 A peace officer shall use every reasonable means to enforce
6 an order or court-approved consent agreement entered under
7 this chapter, a temporary or permanent protective order or
8 order to vacate the homestead under chapter 598, ~~or-any an~~ an
9 order that establishes conditions of release or is a
10 protective order or sentencing order in a criminal prosecution
11 arising from a domestic abuse assault, or a protective order
12 under chapter 232. If a peace officer has reason to believe
13 that domestic abuse has occurred, the peace officer shall ask
14 the abused person if any prior orders exist, and shall contact
15 the twenty-four hour dispatcher to inquire if any prior orders
16 exist. If a peace officer has probable cause to believe that
17 a person has violated an order or approved consent agreement
18 entered under this chapter, a temporary or permanent
19 protective order or order to vacate the homestead under
20 chapter 598, ~~or-any an~~ an order establishing conditions of
21 release or a protective or sentencing order in a criminal
22 prosecution arising from a domestic abuse assault, or a
23 protective order under chapter 232, the peace officer shall
24 take the person into custody and shall take the person without
25 unnecessary delay before the nearest or most accessible
26 magistrate in the judicial district in which the person was
27 taken into custody. The magistrate shall make an initial
28 preliminary determination whether there is probable cause to
29 believe that an order or consent agreement existed and that
30 the person taken into custody has violated its terms. The
31 magistrate's decision shall be entered in the record.

32 If a peace officer has probable cause to believe that a
33 person has violated an order or approved consent agreement
34 entered under this chapter, a temporary or permanent
35 protective order or order to vacate the homestead under

1 chapter 598, ~~or-any~~ an order establishing conditions of
2 release or a protective or sentencing order in a criminal
3 prosecution arising from a domestic abuse assault, or a
4 protective order under chapter 232, and the peace officer is
5 unable to take the person into custody within twenty-four
6 hours of making the probable cause determination, the peace
7 officer shall either request a magistrate to make a
8 determination as to whether a rule to show cause or arrest
9 warrant should be issued, or refer the matter to the county
10 attorney.

11 Sec. 6. Section 602.7103, subsection 2, Code 1995, is
12 amended to read as follows:

13 2. The associate juvenile judge shall have the same
14 jurisdiction to conduct juvenile court proceedings, to issue
15 warrants, nontestimonial identification orders, and contempt
16 arrest warrants for adults in juvenile court proceedings, and
17 to issue orders, findings, and decisions as the judge of the
18 juvenile court, ~~except that the associate juvenile judge shall~~
19 ~~not issue warrants~~. However, the appointing judge may limit
20 the exercise of juvenile court jurisdiction by the associate
21 juvenile judge.

22 Sec. 7. Section 665.4, subsections 2 and 3, Code 1995, are
23 amended to read as follows:

24 2. Before district judges, and district associate judges,
25 and associate juvenile judges by a fine not exceeding five
26 hundred dollars or imprisonment in a county jail not exceeding
27 six months or by both such fine and imprisonment.

28 3. Before judicial magistrates ~~and juvenile court~~
29 ~~referees~~, by a fine not exceeding one hundred dollars or
30 imprisonment in a county jail not exceeding thirty days.

31 Sec. 8. Section 692A.2, subsection 1, Code Supplement
32 1995, is amended to read as follows:

33 1. A person who has been convicted of either a criminal
34 offense against a minor, sexual exploitation, or a sexually
35 violent offense shall register as provided in this chapter for

1 a period of ten years commencing from the date of placement on
2 probation, parole, work release, release from foster care or
3 residential treatment, or other release from custody. A
4 person is not required to register while incarcerated, in
5 foster care, or in a residential treatment program. A person
6 who is convicted, as defined in section 692A.1, of either a
7 criminal offense against a minor or a sexually violent offense
8 as a result of adjudication of delinquency in juvenile court
9 shall not be required to register as required in this chapter
10 if the juvenile court finds that the person should not be
11 required to register under this chapter. If a person is
12 placed on probation, parole, or work release and the
13 probation, parole, or work release is revoked, the ten years
14 shall commence anew upon release from custody.

15 Sec. 9. Section 692A.5, subsection 1, unnumbered paragraph
16 1, Code Supplement 1995, is amended to read as follows:

17 When a person who is required to register under this
18 chapter is released from confinement from a jail, prison,
19 juvenile facility, or other correctional institution or
20 facility, or when such a person is convicted but not
21 incarcerated, the sheriff, warden, or superintendent or, in
22 the case of release from foster care or residential treatment
23 or conviction without incarceration, the court shall do the
24 following prior to release or sentencing of the convicted
25 person:

26 Sec. 10. Section 692A.5, subsection 2, Code Supplement
27 1995, is amended to read as follows:

28 2. When a person who is required to register under this
29 chapter is released from confinement from a jail, prison,
30 juvenile facility, or other correctional institution or
31 facility, or when such a person is convicted but not
32 incarcerated, the sheriff, warden, or superintendent or, in
33 the case of release from foster care or residential treatment
34 or conviction without incarceration, the court shall verify
35 that the person has completed initial registration forms, and

1 accept the forms on behalf of the sheriff of the county of
2 registration. The sheriff, warden, superintendent, or the
3 court shall send the initial registration information to the
4 department within three working days of completion of the
5 registration. Probation, parole, work release, or any other
6 form of release after conviction shall not be granted unless
7 the person has registered as required under this chapter.

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EXPLANATION

9 This bill provides that the court may accept a plea to a
10 lesser included offense or may provide jury instructions to a
11 lesser included offense to an offense excluded from the
12 jurisdiction of the juvenile court under section 232.8. The
13 bill provides that the chief juvenile court officer or the
14 officer's designee may order a child placed in a supervised
15 community treatment program to serve up to a 30-day placement
16 in group foster care for failure to comply with the conditions
17 of placement in the community treatment program. A placement
18 of this nature must be reported to the court the following
19 business day.

20 The bill adds to the criteria for allowing placement in the
21 state training school. Previous placement in a supervised
22 community treatment program as an alternative to residential
23 placement is the additional criterion for placement.

24 The bill further provides that a juvenile who is otherwise
25 eligible to register with the sex offender registry shall
26 register when released from foster care or residential
27 treatment.

28 The bill additionally provides that associate juvenile
29 judges may issue warrants and certain other orders in juvenile
30 court proceedings to the same extent as a district court judge
31 sitting in juvenile court. The bill makes the penalty for
32 contempt of court before an associate juvenile court judge the
33 same as the penalty for contempt before a district associate
34 judge. The bill requires juvenile court protective orders to
35 be enforced in the same manner as domestic abuse protective

1 orders.

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SENATE FILE 2420
FISCAL NOTE

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The estimate for Senate File 2420 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

9

Senate File 2420 provides that the court may accept a plea to a lesser included offense or may provide jury instructions to a lesser included offense to an offense excluded from the jurisdiction of the juvenile court. The Bill adds to the criteria for allowing placement in the state training school. The Bill further provides that a juvenile who is otherwise eligible to register with the sex offender registry shall register when released from foster care or residential treatment. The Bill additionally provides that associate juvenile judges may issue warrants and certain orders in juvenile court proceedings to the same extent as district court judges including the same penalties. The Bill requires juvenile court protective orders to be enforced in the same manner as domestic abuse protective orders.

ASSUMPTIONS

Sufficient information is not available to estimate the number of youth and offenses affected by the Bill.

CORRECTIONAL IMPACT

The exact impact on prison population as a result of Senate File 2420 cannot be determined. It is anticipated that it would not be significant.

FISCAL IMPACT

Sufficient information is not available to determine the fiscal impact of SF 2420. However, any impact is not anticipated to be significant.

SOURCES

Department of Human Services
Criminal and Juvenile Justice Planning Division
Department of Corrections

(LSB 3345sv, PQP)

FILED MARCH 12, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

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SENATE FILE 2420

H-5549

- 1 Amend Senate File 2420, as passed by the Senate, as
2 follows:
3 1. Page 1, by striking line 22, through page 2,
4 line 5, and inserting the following:
5 "Sec. ____ . Section 232.52, subsection 2, paragraph
6 d, Code Supplement 1995, is amended by adding the
7 following new subparagraph:
8 NEW SUBPARAGRAPH. (4) The chief juvenile court
9 officer or the officer's designee for placement in a
10 program under section 232.191, subsection 4. The
11 chief juvenile court officer or the officer's designee
12 may place a child in group foster care for failure to
13 comply with the terms and conditions of the supervised
14 community treatment program for up to seventy-two
15 hours without notice to the court or for more than
16 seventy-two hours if the court is notified of the
17 placement within seventy-two hours of placement,
18 subject to a hearing before the court on the placement
19 within ten days."
20 2. Page 2, line 18, by inserting after the word
21 "violation" the following: "by an adult".
22 3. Page 3, line 22, by inserting before the word
23 "a" the following: ", if the person is an adult, a
24 violation of".
25 4. By renumbering, relettering, or redesignating
26 and correcting internal references as necessary.

By COMMITTEE ON JUDICIARY

HURLEY of Fayette, Chairperson

H-5549 FILED MARCH 25, 1996

Adopted 4/3/96 (p. 1338)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2420

H-5873

- 1 Amend the House amendment, S-5649, to Senate File
2 2420, as passed by the Senate, as follows:
3 1. Page 1, line 34, by striking the word
4 "intimidate" and inserting the following: "use,
5 intimidate,".
6 2. Page 1, line 34, by inserting after the word
7 "person" the following: "without justification".
8 3. Page 1, line 37, by inserting after the word
9 "death" the following: "without justification".
10 4. Page 1, line 48, by inserting after the word
11 "person" the following: "without justification".
RECEIVED FROM THE SENATE

H-5873 FILED APRIL 8, 1996

House Concurred 4.9.96 (p. 1477)

SENATE FILE 2420

H-5740

1 Amend Senate File 2420, as passed by the Senate, as
2 follows:

3 1. Page 6, by inserting after line 7 the
4 following:

5 "Sec. ____ . Section 723A.1, subsection 1, Code
6 Supplement 1995, is amended by adding the following
7 new paragraph:

8 NEW PARAGRAPH. h. Brandishing a dangerous weapon.

9 For purposes of this paragraph:

10 (1) "Brandishing a dangerous weapon" means the
11 display or exhibition of a dangerous weapon, with the
12 intent to intimidate or threaten another person, or
13 the actual use of the dangerous weapon in a manner
14 which is intended to or does cause serious injury or
15 death.

16 (2) "Dangerous weapon" means either of the
17 following:

18 (a) An instrument or device designed primarily for
19 use in inflicting death or injury upon a human being
20 or animal, and that is capable of inflicting death
21 upon a human being when used in the manner for which
22 it was designed.

23 (b) An instrument or device of any sort whatsoever
24 that is actually used in a manner that indicates the
25 defendant intends to inflict death or serious injury
26 upon another person, and that, when so used, is
27 capable of inflicting death or serious injury upon a
28 human being."

29 2. Title page, line 1, by inserting after the
30 word "including" the following: "the use of deadly
31 force by criminal street gangs,".

32 3. By renumbering as necessary.

By LAMBERTI of Polk
WARNSTADT of Woodbury

RANTS of Woodbury
NUTT of Woodbury

H-5740 FILED APRIL 1, 1996

Adopted 4/3/96 (p. 1339)

HOUSE AMENDMENT TO
SENATE FILE 2420

S-5649

1 Amend Senate File 2420, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking line 22, through page 2,
4 line 5, and inserting the following:

5 "Sec. ____ . Section 232.52, subsection 2, paragraph
6 d, Code Supplement 1995, is amended by adding the
7 following new subparagraph:

8 NEW SUBPARAGRAPH. (4) The chief juvenile court
9 officer or the officer's designee for placement in a
10 program under section 232.191, subsection 4. The
11 chief juvenile court officer or the officer's designee
12 may place a child in group foster care for failure to
13 comply with the terms and conditions of the supervised
14 community treatment program for up to seventy-two
15 hours without notice to the court or for more than
16 seventy-two hours if the court is notified of the
17 placement within seventy-two hours of placement,
18 subject to a hearing before the court on the placement
19 within ten days."

20 2. Page 2, line 18, by inserting after the word
21 "violation" the following: "by an adult".

22 3. Page 3, line 22, by inserting before the word
23 "a" the following: ", if the person is an adult, a
24 violation of".

25 4. Page 6, by inserting after line 7 the
26 following:

27 "Sec. ____ . Section 723A.1, subsection 1, Code
28 Supplement 1995, is amended by adding the following
29 new paragraph:

30 NEW PARAGRAPH. h. Brandishing a dangerous weapon.
31 For purposes of this paragraph:

32 (1) "Brandishing a dangerous weapon" means the
33 display or exhibition of a dangerous weapon, with the
34 intent to intimidate or threaten another person, or
35 the actual use of the dangerous weapon in a manner
36 which is intended to or does cause serious injury or
37 death.

38 (2) "Dangerous weapon" means either of the
39 following:

40 (a) An instrument or device designed primarily for
41 use in inflicting death or injury upon a human being
42 or animal, and that is capable of inflicting death
43 upon a human being when used in the manner for which
44 it was designed.

45 (b) An instrument or device of any sort whatsoever
46 that is actually used in a manner that indicates the
47 defendant intends to inflict death or serious injury
48 upon another person, and that, when so used, is
49 capable of inflicting death or serious injury upon a
50 human being."

S-5649

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S-5649

Page 2

1 5. Title page, line 1, by inserting after the
2 word "including" the following: "the use of deadly
3 force by criminal street gangs,".

4 6. By renumbering, relettering, or redesignating
5 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5649 FILED APRIL 3, 1996

Senate Concurred 4-8-96 (A 1250)

SENATE FILE 2420

S-5678

1 Amend the House amendment, S-5649, to Senate File
2 2420, as passed by the Senate, as follows:

3 1. Page 1, line 34, by striking the word
4 "intimidate" and inserting the following: "use,
5 intimidate,".

6 2. Page 1, line 34, by inserting after the word
7 "person" the following: "without justification".

8 3. Page 1, line 37, by inserting after the word
9 "death" the following: "without justification".

10 4. Page 1, line 48, by inserting after the word
11 "person" the following: "without justification".

By JOHNIE HAMMOND

S-5678 FILED APRIL 8, 1996
ADOPTED (P. 1250)

Hammond
Giannetto
Vilsack
Maddox
Boettger

SSB 2197

Judiciary
Succeeded By
SF HF 2420

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY
GENERAL BILL)

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

A BILL FOR

1 An Act relating to juvenile justice, including dispositional
2 alternatives for juveniles adjudicated delinquent, registering
3 with the sex offender registry, and associate juvenile judge
4 jurisdiction.

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

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1 Section 1. Section 232.8, subsection 1, paragraph c, Code
2 Supplement 1995, is amended to read as follows:

3 c. Violations by a child, age sixteen or older, which
4 subject the child to the provisions of section 124.401,
5 subsection 1, paragraph "e" or "f", or violations of section
6 723A.2 which involve a violation of chapter 724, or violation
7 of chapter 724 which constitutes a felony, or violations which
8 constitute a forcible felony are excluded from the
9 jurisdiction of the juvenile court and shall be prosecuted as
10 otherwise provided by law unless the court transfers
11 jurisdiction of the child to the juvenile court upon motion
12 and for good cause. A child over whom jurisdiction has not
13 been transferred to the juvenile court, and who is convicted
14 of a violation excluded from the jurisdiction of the juvenile
15 court under this paragraph, shall be sentenced pursuant to
16 section 124.401B, 902.9, or 903.1. Notwithstanding any other
17 provision of the Code to the contrary, the court may accept
18 from a child a plea of guilty, or may instruct the jury on a
19 lesser included offense to the offense excluded from the
20 jurisdiction of the juvenile court under this section in the
21 same manner as regarding an adult.

22 Sec. 2. Section 232.52, subsection 2, paragraph c, Code
23 Supplement 1995, is amended by adding the following new
24 subparagraph:

25 NEW SUBPARAGRAPH. (3) For a child placed in a supervised
26 community treatment program established pursuant to section
27 232.191, subsection 4, providing up to thirty days placement
28 in group foster care as ordered by the chief juvenile court
29 officer or the officer's designee, for failure to comply with
30 the terms and conditions of the supervised community treatment
31 program. The court shall be notified of a temporary group
32 foster care placement under this section the next business day
33 after the placement is made. Placements of thirty days or
34 less under this section shall not be included in the regional
35 group foster care target established pursuant to section

1 232.143.

2 Sec. 3. Section 232.52, subsection 2A, Code Supplement
3 1995, is amended to read as follows:

4 2A. Notwithstanding subsection 2, the court shall not
5 order group foster care placement of the child which is a
6 charge upon the state if that placement is not in accordance
7 with the regional plan for group foster care established
8 pursuant to section 232.143 for the departmental region in
9 which the court is located. This subsection does not apply to
10 a group foster care placement under subsection 2, paragraph
11 "c", subparagraph (3).

12 Sec. 4. Section 232.52, subsection 2, paragraph e,
13 subparagraph (4), Code Supplement 1995, is amended to read as
14 follows:

15 (4) The child has previously been placed in a treatment
16 facility outside the child's home or in a supervised community
17 treatment program established pursuant to section 232.191,
18 subsection 4.

19 Sec. 5. Section 232.143, subsection 3, Code Supplement
20 1995, is amended to read as follows:

21 3. State payment for group foster care placements, except
22 those provided pursuant to section 232.52, subsection 2,
23 paragraph "c", subparagraph (3), shall be limited to those
24 placements which are in accordance with the regional plans
25 developed pursuant to subsection 2.

26 Sec. 6. Section 236.8, Code Supplement 1995, is amended to
27 read as follows:

28 236.8 VIOLATION OF ORDER -- CONTEMPT -- PENALTIES --
29 HEARINGS.

30 A person commits a simple misdemeanor or the court may hold
31 a person in contempt for a violation of an order or court-
32 approved consent agreement entered under this chapter, for
33 violation of a temporary or permanent protective order or
34 order to vacate the homestead under chapter 598, or for
35 violation of any order that establishes conditions of release

1 or is a protective order or sentencing order in a criminal
2 prosecution arising from a domestic abuse assault, or for
3 violation of a protective order under chapter 232. If
4 convicted or held in contempt, the defendant shall serve a
5 jail sentence. Any jail sentence of more than one day imposed
6 under this section shall be served on consecutive days. A
7 defendant who is held in contempt or convicted may be ordered
8 by the court to pay the plaintiff's attorneys fees and court
9 costs incurred in the proceedings under this section.

10 A hearing in a contempt proceeding brought pursuant to this
11 section shall be held not less than five and not more than
12 fifteen days after the issuance of a rule to show cause, as
13 set by the court.

14 A person shall not be convicted of and held in contempt for
15 the same violation of an order or court-approved consent
16 agreement entered under this chapter, for the same violation
17 of a temporary or permanent protective order or order to
18 vacate the homestead under chapter 598, ~~or~~ for violation of
19 any order that establishes conditions of release or is a
20 protective order or sentencing order in a criminal prosecution
21 arising from a domestic abuse assault, or for violation of a
22 protective order under chapter 232.

23 Sec. 7. Section 236.11, unnumbered paragraphs 1 and 2,
24 Code 1995, are amended to read as follows:

25 A peace officer shall use every reasonable means to enforce
26 an order or court-approved consent agreement entered under
27 this chapter, a temporary or permanent protective order or
28 order to vacate the homestead under chapter 598, ~~or any an~~
29 order that establishes conditions of release or is a
30 protective order or sentencing order in a criminal prosecution
31 arising from a domestic abuse assault, or a protective order
32 under chapter 232. If a peace officer has reason to believe
33 that domestic abuse has occurred, the peace officer shall ask
34 the abused person if any prior orders exist, and shall contact
35 the twenty-four hour dispatcher to inquire if any prior orders

1 exist. If a peace officer has probable cause to believe that
2 a person has violated an order or approved consent agreement
3 entered under this chapter, a temporary or permanent
4 protective order or order to vacate the homestead under
5 chapter 598, ~~or-any~~ an order establishing conditions of
6 release or a protective or sentencing order in a criminal
7 prosecution arising from a domestic abuse assault, or a
8 protective order under chapter 232, the peace officer shall
9 take the person into custody and shall take the person without
10 unnecessary delay before the nearest or most accessible
11 magistrate in the judicial district in which the person was
12 taken into custody. The magistrate shall make an initial
13 preliminary determination whether there is probable cause to
14 believe that an order or consent agreement existed and that
15 the person taken into custody has violated its terms. The
16 magistrate's decision shall be entered in the record.

17 If a peace officer has probable cause to believe that a
18 person has violated an order or approved consent agreement
19 entered under this chapter, a temporary or permanent
20 protective order or order to vacate the homestead under
21 chapter 598, ~~or-any~~ an order establishing conditions of
22 release or a protective or sentencing order in a criminal
23 prosecution arising from a domestic abuse assault, or a
24 protective order under chapter 232, and the peace officer is
25 unable to take the person into custody within twenty-four
26 hours of making the probable cause determination, the peace
27 officer shall either request a magistrate to make a
28 determination as to whether a rule to show cause or arrest
29 warrant should be issued, or refer the matter to the county
30 attorney.

31 Sec. 8. Section 602.7103, subsection 2, Code 1995, is
32 amended to read as follows:

33 2. The associate juvenile judge shall have the same
34 jurisdiction to conduct juvenile court proceedings, to issue
35 warrants, nontestimonial identification orders, and contempt

1 arrest warrants for adults in juvenile court proceedings, and
2 to issue orders, findings, and decisions as the judge of the
3 juvenile court, ~~except that the associate juvenile judge shall~~
4 ~~not issue warrants.~~ However, the appointing judge may limit
5 the exercise of juvenile court jurisdiction by the associate
6 juvenile judge.

7 Sec. 9. Section 665.4, subsections 2 and 3, Code 1995, are
8 amended to read as follows:

9 2. Before district judges, and district associate judges,
10 and associate juvenile judges by a fine not exceeding five
11 hundred dollars or imprisonment in a county jail not exceeding
12 six months or by both such fine and imprisonment.

13 3. Before judicial magistrates ~~and juvenile court~~
14 ~~referees,~~ by a fine not exceeding one hundred dollars or
15 imprisonment in a county jail not exceeding thirty days.

16 Sec. 10. Section 692A.2, subsection 1, Code Supplement
17 1995, is amended to read as follows:

18 1. A person who has been convicted of either a criminal
19 offense against a minor, sexual exploitation, or a sexually
20 violent offense shall register as provided in this chapter for
21 a period of ten years commencing from the date of placement on
22 probation, parole, work release, release from foster care or
23 residential treatment, or other release from custody. A
24 person is not required to register while incarcerated, in
25 foster care, or in a residential treatment program. A person
26 who is convicted, as defined in section 692A.1, of either a
27 criminal offense against a minor or a sexually violent offense
28 as a result of adjudication of delinquency in juvenile court
29 shall not be required to register as required in this chapter
30 if the juvenile court finds that the person should not be
31 required to register under this chapter. If a person is
32 placed on probation, parole, or work release and the
33 probation, parole, or work release is revoked, the ten years
34 shall commence anew upon release from custody.

35 Sec. 11. Section 692A.5, subsection 1, unnumbered

1 paragraph 1, Code Supplement 1995, is amended to read as
2 follows:

3 When a person who is required to register under this
4 chapter is released from confinement from a jail, prison,
5 juvenile facility, or other correctional institution or
6 facility, or when such a person is convicted but not
7 incarcerated, the sheriff, warden, or superintendent or, in
8 the case of release from foster care or residential treatment
9 or conviction without incarceration, the court shall do the
10 following prior to release or sentencing of the convicted
11 person:

12 Sec. 12. Section 692A.5, subsection 2, Code Supplement
13 1995, is amended to read as follows:

14 2. When a person who is required to register under this
15 chapter is released from confinement from a jail, prison,
16 juvenile facility, or other correctional institution or
17 facility, or when such a person is convicted but not
18 incarcerated, the sheriff, warden, or superintendent or, in
19 the case of release from foster care or residential treatment
20 or conviction without incarceration, the court shall verify
21 that the person has completed initial registration forms, and
22 accept the forms on behalf of the sheriff of the county of
23 registration. The sheriff, warden, superintendent, or the
24 court shall send the initial registration information to the
25 department within three working days of completion of the
26 registration. Probation, parole, work release, or any other
27 form of release after conviction shall not be granted unless
28 the person has registered as required under this chapter.

29 EXPLANATION

30 This bill provides that the court may accept a plea to a
31 lesser included offense or may provide jury instructions to a
32 lesser included offense to an offense excluded from the
33 jurisdiction of the juvenile court under section 232.8. The
34 bill provides that the chief juvenile court officer or the
35 officer's designee may order a child placed in a supervised

1 community treatment program to serve up to a 30-day placement
2 in group foster care for failure to comply with the conditions
3 of placement in the community treatment program. A placement
4 of this nature must be reported to the court the following
5 business day, does not count against the regional group foster
6 care target, and is not subject to the regional plan for group
7 foster care.

8 The bill adds to the criteria for allowing placement in the
9 state training school. Previous placement in a supervised
10 community treatment program as an alternative to residential
11 placement is the additional criterion for placement.

12 The bill further provides that a juvenile who is otherwise
13 eligible to register with the sex offender registry shall
14 register when released from foster care or residential
15 treatment.

16 The bill additionally provides that associate juvenile
17 judges may issue warrants and certain other orders in juvenile
18 court proceedings to the same extent as a district court judge
19 sitting in juvenile court. The bill makes the penalty for
20 contempt of court before an associate juvenile court judge the
21 same as the penalty for contempt before a district associate
22 judge. The bill requires juvenile court protective orders to
23 be enforced in the same manner as domestic abuse protective
24 orders.

25 BACKGROUND STATEMENT

26 SUBMITTED BY THE AGENCY

27 Intensive supervised community treatment programs can
28 provide an effective alternative to out-of-home placement for
29 delinquent youth. The effectiveness of these programs is
30 hampered, however, by the lack of available consequences for
31 young people who fail to comply with the conditions of the
32 program. This bill allows for the provision of immediate
33 short-term consequences without the necessity of removing the
34 child from the community program.

35 Short-term placement as a consequence for failure to comply

1 with the conditions of the intensive community treatment
2 program is excluded from the foster care "cap" because, to be
3 effective, the consequence needs to be immediate. Having to
4 wait for an available bed under the current cap causes such a
5 delay as to risk failure in the community setting.

6 The criteria established in the Code for placement of a
7 delinquent youth at the state training school currently
8 includes a prior placement in a residential treatment facility
9 but does not include a prior placement in an intensive day
10 treatment setting. Because of limits on the use of
11 residential treatment, day treatment has become a more common
12 method of treatment for youth with serious delinquency
13 problems. At the same time, the structure, discipline, and
14 programming content in day treatment has become more
15 comparable to residential treatment.

16 The current law forces officials to place delinquent youth
17 in scarce residential treatment facilities, even after the
18 youth has failed in day treatment and even when success in
19 residential treatment is not expected, merely as a means to
20 satisfy the training school admission criteria.

21 The provisions of this bill concerning judges' powers
22 provide associate juvenile court judges the jurisdiction to
23 issue warrants in juvenile cases, juvenile nontestimonial
24 identification orders, and contempt arrest warrants for adults
25 in juvenile proceedings and give them greater ability to
26 enforce their orders. A child abuser who violates a court
27 order against contacting or threatening the victim would be
28 subject to arrest and a jail sentence. Juvenile court
29 protective orders are most common in cases of child sexual
30 abuse.

31 The amendments to chapter 692A clarify that the sex
32 offender registry provisions apply to juvenile offenders who
33 are placed in facilities other than the state training
34 schools.

35

SENATE FILE 2420

AN ACT

RELATING TO JUVENILE JUSTICE, INCLUDING THE USE OF DEADLY FORCE BY CRIMINAL STREET GANGS, DISPOSITIONAL ALTERNATIVES FOR JUVENILES ADJUDICATED DELINQUENT, REGISTERING WITH THE SEX OFFENDER REGISTRY, AND ASSOCIATE JUVENILE JUDGE JURISDICTION.

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

Section 1. Section 232.8, subsection 1, paragraph c, Code Supplement 1995, is amended to read as follows:

c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a

lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section in the same manner as regarding an adult.

Sec. 2. Section 232.52, subsection 2, paragraph d, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The chief juvenile court officer or the officer's designee for placement in a program under section 232.191, subsection 4. The chief juvenile court officer or the officer's designee may place a child in group foster care for failure to comply with the terms and conditions of the supervised community treatment program for up to seventy-two hours without notice to the court or for more than seventy-two hours if the court is notified of the placement within seventy-two hours of placement, subject to a hearing before the court on the placement within ten days.

Sec. 3. Section 236.8, Code Supplement 1995, is amended to read as follows:

236.8 VIOLATION OF ORDER -- CONTEMPT -- PENALTIES -- HEARINGS.

A person commits a simple misdemeanor or the court may hold a person in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or for violation by an adult of a protective order under chapter 232. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

A person shall not be convicted of and held in contempt for the same violation of an order or court-approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or for violation of a protective order under chapter 232.

Sec. 4. Section 236.11, unnumbered paragraphs 1 and 2, Code 1995, are amended to read as follows:

A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232. If a peace officer has reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or, if the person is an adult, a violation of a protective order under chapter 232, the peace officer shall take the person into

custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

Sec. 5. Section 602.7103, subsection 2, Code 1995, is amended to read as follows:

2. The associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings, to issue warrants, nontestimonial identification orders, and contempt arrest warrants for adults in juvenile court proceedings, and to issue orders, findings, and decisions as the judge of the juvenile court, ~~except that the associate juvenile judge shall not issue warrants.~~ However, the appointing judge may limit the exercise of juvenile court jurisdiction by the associate juvenile judge.

Sec. 6. Section 665.4, subsections 2 and 3, Code 1995, are amended to read as follows:

2. Before district judges, and district associate judges, and associate juvenile judges by a fine not exceeding five hundred dollars or imprisonment in a county jail not exceeding six months or by both such fine and imprisonment.

3. Before judicial magistrates ~~and juvenile court referees~~, by a fine not exceeding one hundred dollars or imprisonment in a county jail not exceeding thirty days.

Sec. 7. Section 692A.2, subsection 1, Code Supplement 1995, is amended to read as follows:

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, or a sexually violent offense shall register as provided in this chapter for a period of ten years commencing from the date of placement on probation, parole, work release, release from foster care or residential treatment, or other release from custody. A person is not required to register while incarcerated, in foster care, or in a residential treatment program. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter. If a person is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the ten years shall commence anew upon release from custody.

Sec. 8. Section 692A.5, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall do the

following prior to release or sentencing of the convicted person:

Sec. 9. Section 692A.5, subsection 2, Code Supplement 1995, is amended to read as follows:

2. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall verify that the person has completed initial registration forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent, or the court shall send the initial registration information to the department within three working days of completion of the registration. Probation, parole, work release, or any other form of release after conviction shall not be granted unless the person has registered as required under this chapter.

Sec. 10. Section 723A.1, subsection 1, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Brandishing a dangerous weapon. For purposes of this paragraph:

(1) "Brandishing a dangerous weapon" means the display or exhibition of a dangerous weapon, with the intent to use, intimidate, or threaten another person without justification, or the actual use of the dangerous weapon in a manner which is intended to or does cause serious injury or death without justification.

(2) "Dangerous weapon" means either of the following:

(a) An instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and that is capable of inflicting death upon a human being when used in the manner for which it was designed.

(b) An instrument or device of any sort whatsoever that is actually used in a manner that indicates the defendant intends to inflict death or serious injury upon another person without justification, and that, when so used, is capable of inflicting death or serious injury upon a human being.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2420, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 4/18, 1996

TERRY E. BRANSTAD
Governor