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Chapter 215  
LAWS OF THE 61st GENERAL ASSEMBLY  
(S.F. 95)

PROPOSALS FOR AMENDMENTS  
and  
DISCUSSIONS

*Juvenile Court Laws*

October 1, 1966

Father Cyril F. Engler

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ORGANIZATIONS STUDYING AMENDMENTS

Iowa Welfare Association  
District Court Judges Association  
Municipal Court Judges Association  
    Juvenile Judges Committee  
Iowa Association of Social Workers  
Iowa Civil Liberties Union  
Office of Iowa State Attorney General  
Board of Control  
Board of Social welfare  
Legislative Research Committee -  
    Legislative Research Bureau  
Iowa Citizens Council on Crime and Delinquency  
Iowa Manpower Development Council  
Lutheran Welfare  
Catholic Charities

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RECOMMENDATIONS OF

The Honorable Forest E. Eastman  
Cedar Falls, Iowa

PROPOSED AMENDMENTS TO SENATE FILE 95

(Sections referred to are the numbering used in 61st G.A. Ch. 215, pages 338-351.)

Sec. 3 (9) is amended by striking the term "and ordinary medical care" at line 38 and 39 and replacing the term with "and necessary medical care".

Sec. 3 (13) is amended by striking C. and D. and by striking the words "habitually violated" from line 55 Sec. 3 (13) a.

Sec. 4 is amended by striking all of lines 1 through 7 and line 8 up to and including the term "Clerk of Court." and inserting the following in lieu thereof: "Whenever the Court or any of its officers are informed by any competent person that a minor is within the purview of this Act, an investigation shall be made of the facts presented which bring the minor under this Act to determine whether the interests of the public or of the minor requires that further action be taken. After such an investigation, the judge, probation officer or county attorney may authorize the filing of a petition with the Clerk of the Court by any informed person without payment of a filing fee."

Sec. 4, line 11 is amended by striking the word "informed" and inserting the word "informal".

Sec. 9, line 2 is amended by striking the phrase "an attested copy" and inserting in their place "a copy".

Sec. 9 is amended by adding the following: "All notices of subsequent proceedings, after an initial valid notice has been made as required above, may be made by ordinary mail to the last known address of the parties not less than five days before any hearing date and the filing of a copy of such notice in the Court file shall be adequate proof that said notice was mailed on or before the date filed.

Sec. 14, line 2 is amended by striking the word "phychiatrist" and inserting in lieu thereof the word "psychiatrist".

Sec. 28, line 5 is amended by striking the word "shall" and inserting in lieu thereof the word "may".

Sec. 28, lines 9 through 13 are amended by placing a period after the words "work of the Court;" in line 9 and by deleting the remainder of the sentence.

Sec. 28 is amended by deleting all of the last sentence.

Sec. 29 is amended by inserting the word "legal" in line 2 between the words "to" and "counsel".

Sec. 33 is amended by adding the following sentences: "The juvenile shall not be considered as competent to make such waiver. However if he is represented by an attorney or guardian ad litem, the waiver may be made by them. If he is not so represented the waiver may be made by either of his parents or by his guardian."

Sec. 34 (5) line 19 is amended by deleting all words after the word "institution" and inserting in lieu thereof "named in subsection (4) above."

Sec. 34 (5) line 2 is amended by inserting the words "or hospital" between the words "institution" and "for".

Sec. 35 (5) line 16 is amended by inserting the words "or hospital" between the words "institution" and "for".

Sec. 35 (5) is amended by striking all words after the words "than an institution" and inserting in lieu thereof "named in subsection (4) above."

Sec. 47 is renumbered as Section 41.

Sections 41 through 46 are renumbered as Sections 42 through 47.

Sec. 41 is amended by inserting the words "43 through 51" for the words "42 through 51" wherever they appear.

Sec. 47 is amended by inserting the words "neglect, dependency, delinquency, or" between the words "to" and "grounds" in line 1.

Sec. 44 is amended by striking from lines 1 and 2 the phrase "except a parent of the child or children involved".

Sec. 55 is amended by deleting from line 2 the words "information or indictment" and by adding to the sentence "but the Court's findings of fact are not included."

Sec. 56 is amended by striking the word "on" in line 3 and inserting in lieu thereof the word "of", and by adding the following words at line 3: "social workers, doctors, " after the words -

Sec. 56 cont.

"probation officers" and before; "and."

Sections 62 and 67 should be repealed if a section on exclusive jurisdiction can be passed. Otherwise Sec. 62 should be amended by inserting "mayors court" between "justice of the peace" and "or police court" in line 1.

Sections 62 and 67 are hereby repealed and sections 63 through 66 are renumbered 62 through 65.

THE FOLLOWING ADDITIONAL SECTIONS ARE ADDED TO THE ACT:

Sec. 66 - The juvenile court shall have exclusive original jurisdiction in proceedings concerning any child alleged to be delinquent, neglected, or dependent, and in proceedings for termination of parental rights under Secs. 42 through 51, and in proceedings concerning any minor alleged to have been a delinquent prior to having become eighteen (18) years of age except as otherwise provided by law.

Sec. 67 - Except where the juvenile court has referred an alleged violation to a prosecuting authority in accordance with the provisions of Sec. 76 of this Act. all juveniles appearing in any court other than the juvenile court and charged with a public offense not exempted from this Act by law and who are under eighteen (18) years of age or who were under eighteen years of age at the time of the commission of the alleged offense shall immediately be transferred to the juvenile court of the county.

Sec. 68 - Transfer of cases pursuant to Sec. 68 shall be made by filing with the clerk of the juvenile court a certificate showing the name, age and residence of the minor, the names and addresses

Sec. 68 cont.

of the parents or guardian, if known, and the reasons for appearance of the minor in court, together with all the papers, documents, and testimony connected therewith. The case shall then be processed the same as all cases where the court has been informed that a child may be within the purview of this Act.

Sec. 69 - The jurisdiction of the juvenile court shall attach immediately upon the signing of the certificate or order of transfer and from the time of transfer any custody or detention of the minor shall be in accordance with chapter two hundred thirty-two (232) of the Code.

Sec. 70 - Jurisdiction obtained by the court in the case of a minor shall be retained by the court until the minor becomes twenty-one (21) years of age unless terminated prior thereto by order of court or provision of law. When a minor eighteen (18) years of age or over already under the jurisdiction of the court is convicted of an indictable offense in a criminal court, the conviction shall terminate the jurisdiction of the juvenile court.

Sec. 71 - Venue for neglect, dependency and delinquency proceedings shall be in the county where the minor is found or in the county of the minor's residence. If a minor is alleged to be delinquent, the county where the alleged delinquency occurred shall also have venue.

Sec. 72 - The judge may transfer any proceedings brought under this Act, to the court of any county having venue at any stage of the proceedings and in the following manner:

Sec. 72 (cont.)

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

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

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

Sec. 73 - The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew.

Sec. 74 - If it appears at any stage of the proceedings that a minor before the court is a resident of another state, the court may invoke the provisions of the interstate compact on juveniles or, if it is in the best interests of the minor, the court may place the minor in the custody of the parents, guardian, or custodian, if the parents, guardian, or custodian agree to accept custody of the minor and to return the minor to the other state.

Sec. 75 - When a petition alleging delinquency is based on an alleged act committed after the minor's 14th birthday, and the court, after a hearing, deems it contrary to the best interest of the minor or the public to retain jurisdiction, the court may enter an order making such findings and referring the alleged violation to the appropriate prosecuting authority for proper action under the criminal law. The order of reference terminates the jurisdiction of the juvenile court in the matter.

Sec. 76 - When a petition has been filed in the juvenile court, a minor shall not thereafter be subject to a criminal prosecution based on the facts giving rise to the petition except as provided in Sec. 76 of this Act.

Chapter 231, section 8 is amended by adding the following paragraph: (S.F. 59, Sec. 8.)

All probation officers shall serve at the pleasure of the juvenile court judge or judges and shall be selected and appointed in accordance with such rules, standards, and qualifications as shall be established by the supreme court pursuant to section six hundred eighty-four point twenty-one (684.21) of the Code. This section shall not affect in any way the appointment or term of office of any probation officer presently serving in any county or counties.

SOURCE MATERIAL USED IN DRAFTING THE NEW  
JUVENILE CODE

\* \* \* \* \*

In drafting the new Iowa Juvenile Code two basic principles were followed; first, to set into words the thinking of the Study Committee and secondly, wherever the thinking of the Study Committee was found well drafted in neighboring jurisdictions to use that draftsmanship. The thought was that by using the draftsmanship of our neighboring states a common body of precedence could be built around these sections.

The following is a list of each section in the new Code and the source of that section. The two principal sources are the Standard Act published by the National Council on Crime and Delinquency in the October, 1959 issue of the NPPA Journal and the Minnesota Act enacted in 1959. Both of these acts are accompanied by explanations and comments by their drafters. Also used was the Wisconsin Act of 1955 and the Missouri Act of 1957 and, of course, the old Iowa law found in Chapter 232.

232.1 - - Rule of Construction.

- Same - Section 1 of the Standard Act.
- Section 211.010 of the Missouri Act except for first sentence.
- Similar - Section 260.011 of the Minnesota Act.
- Previous Iowa Sections - None.

232.2 - - Definitions.

- Same - None
- Similar - Section 260.015 of the Minnesota Act.
- Section 2 of the Standard Act.
- Section 48.02 of the Wisconsin Act.
- Section 211.020 of the Missouri Act.
- Previous Iowa Sections - None.

232.3 - - Information - Investigation - Petition.

The first two sentences are a result of an amendment by the

1965 Legislature. They were originally drafted as a copy of previous Iowa Section 232.5.

Remainder of first paragraph:

Same - Standard Act, Section 12, Par. 1.  
Previous Iowa Section - None.

Second paragraph:

Same - Section 12, par. 3 of the Standard Act.  
Previous Iowa Section - None.

Last paragraph:

Same - Previous Iowa Section 232.6.  
Previous Iowa Sections - 232.3, replaces old Iowa Sections 232.5 and 232.6.

232.4 - - Hearing - Appearance - Summons.

Same - Section 260.135 Subd. 1 of the Minnesota Act.  
Similar - First sentence of Section 14 of the Standard Act.  
Section 48.21 (1) Wisconsin Act.  
Section 211.100 (1) Missouri Act.  
Previous Iowa Section - 232.8 and 232.7.

232.5 - - Service of Notice.

Same - Minnesota Section 260.135 except that the last sentence is added.  
Similar - Section 48.21 (2) Wisconsin  
Section 211.100 (2) Missouri.  
Section 14, par. 1, second sentence of the Standard Act.  
Previous Iowa Section - Part of 232.8.

232.6 - - Subpoena.

Same - First sentence.  
Section 260.135, Subd. 4, Minnesota.  
Section 211.100 (4) Missouri.  
Section 14, par. 1. 3<sup>rd</sup> sentence, Standard Act except the word "summons" is used instead of the word "subpoena".  
Second sentence.  
Same - Content as last sentence of first paragraph of section 14 of the Standard Act.  
Previous Iowa Section - None.

232.7 - - Child Taken Into Custody.

Same - Section 260.135, Subd. 5, Minnesota.  
Section 14, sentence four, paragraph one, Standard Act.  
Section 211,100 (3) Missouri Act.  
Previous Iowa Section - 232.14.

232.8 - - Personal Service.

Same - Section 14, second paragraph, Standard Act except for time.  
Similar - Section 211.110 Missouri  
Previous Iowa Section - 232.10.

232.9 - - Who May Service Summons

Same - Section 260.141. Subd. 2, first sentence Minnesota.  
Section 14, first sentence, last paragraph, Standard Act.  
Previous Iowa Section - 232. allowed the Court to provide the  
manner of service.

232.10 - - Content

Same - Section 260.145 Minnesota.  
Section 15 Standard Act.  
Similar - Section 48.23 Wisconsin.  
Section 211.120 Missouri.  
Previous Iowa Section - None.

232.11 - - Parent or Guardian to be Present.

Same - None.  
Similar - Section 260.155 Subd. 4 Minnesota.  
Previous Iowa Section - None.

232.12 - - Other Issues Adjudicated.

Same - Section 21 Standard Act  
Previous Iowa Section - None.

232.13 - - Examination of Child.

Same - Section 22 of Standard Act except that the last sentence  
authorizing examination of adults is omitted.  
Previous Iowa Section - None.

232.14 - - Report of Social Investigation.

Same - Section 23 Standard Act except that the provisions for  
denial are spelled out.  
Similar - Section 260.151 Minnesota.  
Previous Iowa Section - None.

232.15 - - When Immediate Custody May Be Taken.

Same - Section 260.165 Minnesota.  
Section 48.28 Wisconsin.

232.15 - - When Immediate Custody May Be Taken (Cont.)

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Similar - Section 16, first paragraph Standard Act.  
Previous Iowa Section - None.

232.16 - - Parents or Guardians Notified.

Same - Section 260.171 Subd. 1 Minnesota with the last sentence deleted.

Similar - Section 16, par. 2 Standard Act  
Section 48.29 Wisconsin  
Section 211.140 Missouri.

Previous Iowa Section - None.

232.17.- - Court Notified of Detention of Child.

Same - Section 260.171 Subd. 2 and first sentence of Subd. 3  
Minnesota except no exclusions for holidays in  
Iowa law.

Similar - Section 48.29 (2) Wisconsin and  
Section 211.140 Missouri.

Previous Iowa Section - None.

232.18 - - Where Child May be Detained.

Similar - Section 260.175 Minnesota.  
Section 48.30 Wisconsin.  
Section 211.150 Missouri.

Previous Iowa Section - None.

232.19 - - Detention in Jail--When.

Similar - Section 260.175 (D) Minnesota.  
Section 17 (4) Standard Act.  
Section 48.30 (D) Wisconsin.  
Section 211.15 (4) Missouri.

Previous Iowa Section - 232.35. Also see present Iowa Section  
356.3.

232.20 - - Notice to Court by Custodian of Jail.

Same - Section 17 (7) Standard Act.  
Previous Iowa Section - None.

232.21 - - Juvenile Home May be Maintained  
through 232.26 - Financial Aid from State.

These sections on the juvenile home werer prepared by the  
Committee on detention. They were then revised after the  
1965 Legislature to meet certain objections raised by

representatives and they were then amended by the 1965 Legislature to their present form.

Previous Iowa Sections - 232.35 and 232.36.

232.27 - - Hearings to the Court.

This section was originally drafted as a copy of Section 260.155 Subd. 1 of the Minnesota law. It was amended by the 1965 Legislature to restrict the privacy of hearings. Sections 48.25 (1) Wisconsin and 211.190 (5) Missouri make the hearings private with admission at the discretion of the Judge as this section did before the Legislature amended it.

Previous Iowa Sections - 232.13 and 232.19.

232.28 - - Right to Counsel.

Similar - Section 260.155 Subd. 2, Minnesota.  
Section 19, paragraph 3 Standard Act.  
Section 48.25 (6) Wisconsin.  
Previous Iowa Section - 232.15.

232.29 - - County Attorney to Present Evidence.

Same - Section 260.155 Subd. 3, Minnesota  
Previous Iowa Section - None.

232.30 - - Presence of Child Waived.

Same - Section 19 Standard Act.  
Section 48.25 Wisconsin.  
Section 211.190 Missouri.  
These three acts differ in that they allow hearings outside the presence of the child at any time while the Minnesota Act and the new Iowa law do not allow this when the juvenile is charged with delinquency prior to adjudication.  
Previous Iowa Section - None.

232.31 - - Evidence by Child and Parents, etc.

Similar - Section 260.155 Minnesota.  
Previous Iowa Section - None.

232.32 - - Reporter Required.

Same - Section 19 first sentence, second paragraph Standard Act.  
Similar - Section 48.25 (4) Wisconsin.

232.32 - - Reporter Required (cont.)

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(Note: In Section 211.190 (4) Missouri a record is required only on Court Order.)

Previous Iowa Section - None.

232.33 - - Disposition of cases of Neglect or Dependency.

232.34 - - Disposition of cases of Delinquency.

These two sections were worked out by the Committee primarily from the old Iowa law but using ideas found in all of the other sources. (See Section 2 Standard Act, Sections 48.34 and 48.35 Wisconsin Act, Section 211.200 Missouri and Sections 260.185 and 260.191 Minnesota.)

Previous Iowa Section - 232.21 and 232.27.

232.35 - - Commitment to Board of Control.

This section restates the old Iowa law found in Sections 232.1, 232.30 and Attorney General's Opinions.

232.36 - - Orders Continued to Majority of Child.

Similar - Section 48.35 (2) (a) Wisconsin.  
Section 211.200 (1) Missouri.  
Section 260.185 Subd. 4 and Section 260.191 Subd. 2  
Minnesota.

Previous Iowa Section - 232.30

232.37 - - Periodical Reports to the Court

Similar - Sections 48.35 (2) (a) Wisconsin.

Last Sentence:

Same - Section 260.185, last sentence of Subd. 4 Minnesota.  
Section 260.191, last sentence of Subd. 2 Minnesota.

Previous Iowa Section - None

232.38 - - Transfer of Custody to Agency or Institution.

Similar - Section 260.185 Subd. 5 and 260.191 Subd. 3 Minnesota  
Section 24 (4) Standard Act.  
Section 48.34 (3) (b) Wisconsin.  
Section 210 (2) Missouri.

Previous Iowa Section - 232.30

232.39 - - Transfer in Case of Change of Residency.

Similar - Section 24 (11) Standard Act.  
Section 48.35 (3) Wisconsin.

Previous Iowa Section - None

232.40 - - Parent-Child Relationship not Changed.

This section was inserted to insure separate operation of sections on determination of parent-child relationship.

232.41 - - When Relationship Changed  
through 232.50 - - Removal of Guardian.

Similar - Sections 260.221 through Section 260,245 Minnesota (Note - the new Iowa law and the Minnesota law are almost identical. Terminology was changed to integrate these sections into the Act. The phrase "except the parent of the child or children involved was added by amendment in 1965 Legislature.) Section 260.231 Subd. 2 Minnesota is found under the definition of guardian. At Section 232.2 (8) Section 48.40 through Section 48.43 Wisconsin.

Previous Iowa Section - 232.22.

232.51 - - Expenses.

Similar - Section 232.51 Minnesota.  
Section 27, first paragraph, Standard Act.  
Section 48.27 (1) Wisconsin.  
Previous Iowa Section - 232.25.

232.52 - - Expenses charged to County,

Same - Section 260.251 Subd. 2 Minnesota.  
Previous Iowa Section - None

232.53 - - Recovery of Costs.

= Similar - Section 250.251 Subd. 3 Minnesota.  
Section 48.27 (2) Wisconsin  
Section 211.24 (4) Missouri.  
Previous Iowa Section - None.

232.54 - - Legal Records Not Confidential  
through Section 232.57 Records Confidential

These sections are all results of amendments made by the 1965 Legislature. As originally drafted these sections were basically copies of Section 260.161 of the Minnesota law. Under the Committee's draft all records would have been private and released only on order of court. See Section 33 Standard Act, Section 48.26 Wisconsin, Section 211.310 Missouri, all making the records private to be released only by order of court.

232.58 - - Appeal.

Same - Section 28 Standard Act except Standard Act uses fictitious names on published record.

232.59 - - Report to State Board of Social Welfare.

Same - Old Iowa Section 232.38

232.60 - - On Religious Belief.

Similar - Old Iowa Section 232.24

232.61 - - Mandatory Transfer from Justice Court.

Same - Old Iowa Section 232.18.

232.62 - - Concurrent Jurisdiction of Criminal Offenses.

This was amended by the 1965 Legislative making the previous Iowa case law statutory.

The Honorable Forrest E. Eastman, Cedar Falls  
"The Over-All Picture of Senate File 95"

Ladies and Gentlemen:

I have been assigned the task of presenting the "Over-All Picture of Senate File 95" and I have been allotted one hour including time for reactions. I assure you there will be no time for jokes or entertaining side light.

At the request of the Legislative Advisory Committee on Juvenile Laws I prepared the original draft of what later became SF95. In drafting the bill, I tried to follow two basic principles. First and foremost was an attempt to use only those ideas agreed upon by the Committee and to resist the temptation to insert a few pet ideas of my own. Secondly, whenever the ideas of the sub-committee had been enacted into law by a neighboring jurisdiction I used the language of that law as enacted. I did this to aid in establishing a common body of precedence throughout this midwestern area.

I have had duplicated for your use a list of all the sections in SF95 followed by a list of identical or similar sections found in the four acts used as source material. The two primary sources were the Standard Act and the 1959 Minnesota Act. The Standard Act is printed in the 1959 October issue of the NPPA Journal with comments on each section. The Minnesota Act can be obtained by purchasing from West Publishing Company the pocket part to Volume 17 of the Minnesota Statutes Annotated. This also contains comments by the Interim Commission that drafted the law.

You will find that quite often you can check the list provided for the source of a particular section and by going to the source you will often find an explanation of the purpose of the section.

I will now take SF95 section by section commenting in detail on the most important sections. It will be helpful if you follow along on your own copies of the law.

The sections I have listed are as they appear in the pocket part to Volume 11 of the Iowa Code Annotated. This is the same printing that will be used in the 1966 Code of Iowa when it is published. If you are using a copy of SF95 as passed by the legislature, your comparative sections will be one number higher. This also holds true for the list of source material provided.

Section one deals with the overall philosophy of the law. The key phrase in this section, to my mind, is the phrase, "preferably in his own home."

Section two (2) provides definitions for many of the terms used in the Act. This section closely follows Section 260.015 of the Minnesota Act although it is not identical. A proper understanding of the Act depends upon the use of the definitions supplied. This section should go a long way in clearing up the confusion in many workers' minds as to "What legal custody means," "What can a guardian do?", "What is probation?", etc.

There are three key definitions that we must discuss at length. They are (No. 13) "Delinquent child," (No. 14) "Dependent child," and (No. 15) "Neglected child." These three sections are the key to the whole Act. Unless a child can be found to come under one of those definitions, he does not come under the Act and the Juvenile Court has no authority to exercise control over him.

First, let's take a look at what constitutes a "delinquent child." Sections a and b require a law violation, c is the incorrigible child and I don't know what d is. Section d is a copy of Subc. 5 (e) of the Minnesota Act. It is quite vague and should not be used too often.

Note that the law now defines the incorrigible state rather than just stating "incorrigible." The specific delinquent activities found in our old law are dropped. A good argument could be made that delinquency should be defined only as an unlawful act. However, the committee did not choose to take this route.

In "a" the term "habitually" was added by legislative amendment. The legislator who introduced this amendment intended to make it impossible to adjudicate a juvenile as "delinquent" does not make this clear. The term "habitual" does not apply to the term "state law" and yet many of our state laws involve only a simple misdemeanor. My personal opinion is that the juvenile Court should require the commission of an offense that would be indictable if committed by an adult or the habitual commission of non-indictable offenses before making a finding of delinquency.

Section 14 defines a "dependent child" and section 15 defines a "neglected child." These were previously defined together in Section 232.2 of our old law.

If you will read these two definitions, it becomes readily apparent why they are separated. The dependent or neglected child are in the same situation and need the same help but the difference lies in how they reached this status. The dependent child is in need because his parents are unable to provide for him. The neglected child is in need because his parents won't provide for him. It seemed unfair to label parents neglectful if they had done all they could even though they were unable to do enough.

As originally drafted the first paragraph of section 3 read the same as the old Section 232.5 except for the last two sentences of the present section 3. The Legislature amended the first paragraph to its present reading to prohibit the filing of crank petitions. The old law had adequate protection against crank petition by requiring approval of the County Attorney or a probation officer before a petition could be filed. The requirement that the County Attorney or the probation officer sign the petition is unnecessary and undesirable. The probation officer is being cast in the role of the accuser.

Frankly, I do not understand what is required by the first part of the first paragraph. This section, as amended, is wide open to the interpretation that a juvenile is entitled to a preliminary hearing, that the court must make a finding that the child may be delinquent, neglected, or dependent before a petition may be filed by the County Attorney or probation officer and that this is the only way a petition may be placed on file. The preliminary hearing procedure has no place in juvenile law. I talked with the legislator who drafted this amendment and know this was not his intention. I intend to follow what I know to be the legislative intent. This section should be amended in the next legislature to return it to the form of the original draft.

The last two sentences of the first paragraph of Section 3 are completely new in Iowa and are an attempt to authorize and restrict the use of informal probation. The wording of these two sentences was lifted from Section 12 paragraph 1 of the Standard Act.

Previously so called "informed probation" was extra legal and wide open to official abuse. The present law requires an admission of the facts and the consent of the parents or guardian before informal probation can be used. Unless both of these requirements are met, the probation office has no authority to place restrictions on the juvenile. Even if the requirements are met, the informal probation must last no longer than three months without review by the Judge. Long term control of any citizen by an official without due process of law is certainly to be avoided.

The remainder of section 3 deals primarily with the form of the petition and I'm certain Judge Kelly will have more to say about this.

Section 4 requires certain actions by the Court after the filing of a petition. These actions are mandatory not discretionary and consist of the following: 1. Set a time for hearing; for the Juvenile Court to be effective the time lay between the commission of the act by the juvenile and the official court action should be as short as possible. It is a particularly reprehensible practice for a court to award temporary custody pending hearing and then set no hearing date; 2. Summons shall be issued requiring the person having custody of the child to bring the child before the Court. 3. The summons must state the substance of the petition or have a copy of the petition attached. 4. The summons must give notification of the right to counsel.

Section 6 gives the Court or the guardian or the parent the right to subpoena witnesses.

Section 7 provides for a very drastic temporary relief in an emergency situation by taking the child into custody before any judicial determination of the facts alleged in the petition is made. This relief should be used sparingly and only in emergency situations. A worker asking for immediate custody must make a sufficient factual showing under oath either in the petition or by separate affidavit to justify the Court making a finding that the welfare of the child requires custody of

immediately assumed. It is not sufficient to make a bold statement that an emergency exists. A report filed with the Court but not sworn to is insufficient. If the affidavit is used, it should be sworn to by someone who has personal knowledge of the conditions. The worker should not sign the affidavit if his knowledge is based solely on what he has been told.

Sections 8 and 9 deal with the service of summons or notice. The judges present are well aware of what constitutes good service. To the workers, I will only say read these sections literally and follow them explicitly then get your proof of service on file. One caveat, section 8, requires that the copy of the summons served be attested. <sup>no</sup> attestation, no proper service.

Section 10 gives the Court the power of contempt (which it undoubtedly would have anyway) and authorizes the Court to take the child into immediate custody if the summons would be ineffectual. In other words, if the child is about to be removed from the State or hidden to escape the Court's jurisdiction, the Court can stop this by taking the child into immediate custody.

Section 11 requires the presence of a parent or guardian at the hearing to protect the interests of the child. The

appointment of a guardian ad litem would also be advisable in those not too infrequent cases where the parents and the child are aligned against each other at the hearing.

Section 12 was drafted to allow the Court to make a different disposition than that requested in the pleadings. For example, a boy is filed against for delinquency because of incorrigibility. However, at the hearing the facts establish that the boy is dependent, because he is in need of special psychiatric care that his parents are unable to provide. Under this section the Court, with the consent of the parents, may find the child dependent and make the appropriate disposition. Otherwise, a new petition and a second hearing would be required since none of the parties were on notice that an issue of dependency was to come before the Court. If the parents disagree they should be entitled to a second hearing where they can come prepared to argue the issue of dependency.

Section 13 is indispensable to the effective operation of a juvenile court. Note that a mental or physical examination may be ordered prior to an adjudication and the Court may commit to a hospital to have such an evaluation made. However, treatment can be ordered only after an adjudication. I should also like to note in passing that contrary to the belief had by some workers and mental health institutes, the Juvenile Court has no authority to order a psychiatric examination of the parents.

Section 14 makes a written social history mandatory and states briefly what should be contained in the report. Most states that have recently recodified their juvenile codes have established a double hearing system. The first hearing is solely a factual

determination as to whether the juvenile is delinquent, neglected, or dependent. If an adjudication is made following the first hearing, then a second hearing is held to determine the proper disposition. The social investigation is started only after an adjudication has been made.

The committee recognized the right of the individual to his privacy until there had been a legal determination to the contrary. However, we also recognized that a large number of juvenile cases involve no disputed facts and that two hearings in such cases would be a waste of time. We therefore guarantee the privacy of the individual but place the burden upon the individual to assert his right by entering a written denial of the charges within two days. If this denial is made the social investigation may not be commenced until a hearing is held and an adjudication made.

Section 15 is self-explanatory. Read it carefully and apply it specifically. If you can't meet one of the requirements laid out in this section then you can't take a child into immediate custody, period.

Sections 16 through 19 state the procedure that must be followed if a child is taken into custody under Section 15 and where said child may be detained.

The procedure is as follows:

1. The parent, guardian, or custodian must be notified as soon as possible.
2. The child must be released to the custody of his parents, guardian, or custodian unless his immediate welfare or the protection of the community requires that he be detained.
3. If the child is not released the Court must be notified as soon as possible.
  - a. The child may be held no longer than 12 hours without a Court order authorizing detention and stating the reason for it.
  - b. No child may be held longer than 48 hours unless a petition is placed on file, and the judge determines the child shall remain in custody.
4. The parents, guardian, or custodian must be notified of the place of detention as soon as possible.

Section 18, paragraph 3, gives the judge sufficient power to order the child be detained almost any place he deems suitable. Paragraphs 1, 2, and 4 list some of the places that are suitable.

Section 19 authorizes detention in jail under certain circumstances. Note that jail detention of a child longer than 12 hours is only possible if the child is 14 or older; is charged with delinquency, is kept separate from adults, is a menace to himself or society, cannot be safely detained elsewhere, and the Court orders the jail detention.

The previous Iowa law specifically prohibited jail detention of juveniles although an attorney general's opinion said it didn't really mean it. The committee recognized that some juveniles required the security of a jail and that most counties have no other facilities. Therefore, jail detention was authorized under the restrictions stated above. The Committee felt that whether a child should stay in a jail for any length of time should be determined by the judge and not the sheriff or probation officer. Do not hold juvenile's in jail without the required Court order.

Sections 21 through 28 deal with the establishing and maintaining of juvenile homes. The important changes in the old law are as follows:

1. Several counties may now join in the building or maintaining of a multi-county juvenile home.
2. The county board of education is given the responsibility of educating the children in the home.
3. The state board of social welfare sets minimum standards for the juvenile homes and approves them.
4. The State may provide financial aid up to 50% of the cost for providing and maintaining an approved juvenile home.
5. All counties are now authorized to levy a  $\frac{1}{2}$  mill tax to maintain the home. The previous law allowed Polk to levy  $\frac{1}{2}$  mill and all other counties were limited to  $\frac{1}{4}$  mill. This law was drafted with a maximum of 2 mills and the legislature cut it back to  $\frac{1}{2}$  mill.

Section 27 states very briefly the type of hearing that is held in juvenile court. This section is primarily the result of amendments made by the legislature. Basically the requirements for the hearing are as follows:

1. No jury
2. May be informal,
3. May be continued from time to time with the Court making orders in the best interest of the child,
4. The general public is excluded,
5. News media are admitted but may be excluded if no felony charged.
6. Persons having a direct interest in the case or the work of the court are admitted.

The phrase "child charged by information or indictment with the commission of a felony" was added by the legislature to require the presence of the news media at hearings involving the commission of a felony. Since the juvenile Court is a civil Court and there are no "informations," "indictments," or "felonies," it is impossible to say what the Supreme Court will do if called upon to interpret this section.

The last sentence of this section is now surplusage. It was originally drafted into this section because adoptive jurisdiction was given to the Juvenile Court in SF59. SF59 did not pass so the Juvenile Court does not have adoptive jurisdiction and this sentence becomes meaningless.

Section 28 guarantees the right to counsel.

Section 29 requires the county attorney to present evidence upon request of the Court. Again, the reference to adoptions is now surplusage.

Section 30 lays further ground rules for the hearing. Specifically this section authorizes the Court to excuse interested parties at various stages of the hearing. The only restriction being that an attorney or guardian ad litem for any such excused party must be allowed to remain. There is a further restriction that a juvenile alleged to be delinquent can be excused only after an adjudication of delinquency. This forestalls any possible constitutional argument and is not too restrictive since confidential matter usually pertains to the disposition and not to establishing the act of delinquency.

Section 31 guarantees the interested parties the right to present evidence and to question witnesses. It may seem ridiculous to put such a section in but in the past with juvenile hearings held in chambers and at times no record being made or witnesses sworn it is questionable that this obvious right was extended in any effective way.

Section 32 requires that the juvenile case be reported unless waived by the Court. Any legal action carrying such important long range results as a juvenile hearing, deserves a good appealable record to help guard against any arbitrary actions by officials involved.

Section 33 lists the possible disposition after an adjudication of neglect or dependency. Note that the same section covers both neglect and dependency dispositions even though they are separately defined. This is true because as stated earlier these children have the same needs.

There just two comments I should like to make about section 33:

1. Custody of a child may now be placed directly in a social welfare department or a child placing agency. There was no such authority in section 232.21 of the old law.

2. Placing of custody of a neglected or dependent child in a probation department is not authorized. It was thought that neglected or dependent children should be serviced by Child Welfare workers and not probation officers. However, if the organization of services in your particular county requires that these cases be serviced by the probation officer this can be accomplished by transferring the custody by name to the probation officer as a "reputable individual of good moral character." This is the same method previously used to make commitments to agencies without specific statutory authority to do so.

The two comments made concerning section 33 apply also to section 34 except that the situation concerning placing custody in the probation office or social welfare department is reversed.

Section 35 is a restatement of the Old Iowa Law that the Court's jurisdiction ended upon commitment to the board of control.

Section 36 restates the Old Iowa Law that the Court's jurisdiction must end at 21 years of age. This section also requires at least an annual review by the Court of all orders.

The Court may change its previous disposition on its own motion or upon application by notice must be served and the Court must hold a hearing on the question of the change in disposition. Certainly if an order, placing a child on probation is to be changed to a commitment to the training school the juvenile and his parents should be given an opportunity to contest this commitment. The notice of course would be unnecessary if the parties appeared voluntarily.

Section 37 is self-explanatory.

Section 38 is intended to give the training school or a private agency or institution as much help as possible in understanding the juvenile and giving him immediate help on his problems. This section sets the minimum amount of information that the Court must send with the juvenile; that is, a copy of the Court order and findings and a summary of the court's information. This report should be complete enough to give the institutions a full understanding of the case and limited enough that the important matters are not lost in a multitude of details.

Section 39 authorizes transfer of juvenile cases between courts when the child is on probation or under protective supervision and changes his residence. It had been the practice in the past for a department in one county to cooperate with the department of another county by servicing juveniles under court order, who moved from the county. However, in the past if any problems arose requiring court action, this had to be relayed from the new department to the original department, and then to the originating Court. Under this section, the juvenile court of the new county of residence will be able to act just as though the case had originated in this Court.

Section 40 was inserted to make quite clear that the procedure established in sections 41 through 50 was the only procedure available for the termination of the relationship between parents and child.

Section 41 lists the grounds for termination of the parent-child relationship. The Court must find at least one of these grounds exists or termination cannot be ordered. Note that paragraph 1 provides for a voluntary termination for good cause shown.

Section 42 simply states which juvenile court has venue to hear termination procedures. There was a general venue provision for the rest of that in SF59.

Section 43 is another section that was messed up by quickie amendments thrown in by the legislature at the last minute. The phrase "except a parent of the child or children involved" was added by admendment. The reason is obscure to me particularly since paragraph 1 of section 41 was allowed to remain. On the other hand section 43 was not amended to conform to the amendments placed on section 3. This leaves section 43 saying that any reputable person may petition the Court for termination as provided in section 3 while section three no longer allows any reputable person, to file but requires filing by the probation officer or county attorney. If section 3 were returned to its original form as suggested earlier, this would no longer be a problem. As it now reads the only safe procedure is to have all termination petitions filed by a probation officer or the county attorney.

Section 44 requires a hearing before any termination.

Section 45 sets out the manner of notice. Read it closely, follow it explicitly. Note the time is extended to 10 days.

Section 46 is interesting in that it specifically authorizes the introduction of hearsay evidence as contained in reports, studies, and examinations and leaves it to the Court to judge their materiality and probative value. The section does require that the author or examiner be subjected to examination when reasonably available but this is not made a condition for the acceptance of the reports into evidence. This section should probably have been placed in the general sections rather than being limited by section 40 to application only in termination proceedings.

Section 47 empowers the Court to make a finding of neglect or dependency on the basis of a termination petition and hearing. Section 40 made it quite clear that the reverse is not true. Termination cannot be ordered on the basis of a neglect or dependency petition and hearing.

Section 48 lists the dispositions available to the Court after a termination. In every case where termination is granted a guardianship of the person must be ordered. See section 2 (8) for the authority of the guardian. Section 2 (8)d specifically gives a guardian appointed after termination the right to consent to adoption. The adoption laws are not changed by these sections except to substitute the guardian for the parents.

Section 49 is similar to section 38 which has been discussed. Note that only where professionals are involved is a full disclosure required. The individual guardian is entitled only to a copy of the Court order.

Section 50 sets out procedures for removing a guardian.

The sections just covered relating to termination of the parent-child relationship are the most important changes made by our new law.

Under section 232.22 of our old law, anytime the Court committed a child to the custody of any person or institution that person or institution became the legal guardian of the child and the proper party to any proceeding for the legal adoption of the child. The issues heard usually did not go to a question of termination but one of neglect and dependency or delinquency and yet, possible termination by adoption was inherent in every Court finding of neglect and dependency or delinquency. The question of whether parent and child should be permanently separated is too important to allow it to be incidental to another proceeding. Under the new law parents attending a termination hearing are on notice as to why they are there, and after a termination there is no question as to the legal status of all parties involved.

The termination proceeding could also be an effective tool in many voluntary adoptions. For example, the young unwed mother bears her child, a petition for termination is filed accompanied by the written consent of the mother, the good cause is lack of a father, any means of support, or a name to give the child. The Court holds a hearing, terminates the parent-child relationship and appoints a licensed child-placing agency as guardian of the person and gives the agency legal custody. From that point, all interests of the mother have been terminated and the agency can sign the consent for adoption. This means that the mother's interests can be terminated before adoptive parents are located or determined and that the maternal mother and the adoptive parents need never see each other or have any opportunity to know each others identity.

Under section 51, the determination as to what are proper expenses for care or for physical or mental examinations or treatment is left to the determination of the judge. Upon certification by the judge these expenses become a charge against the county. This section also authorizes the Court to order support payments by the parents if the parent-child relationship has not been terminated.

Section 52 specifically lists other expenses of the Court that are charges upon the county.

Notice that sections 51 and 52 both refer to the county where the case is being heard. This county must pay the expenses upon certification by the judge regardless of any dispute over the domicile of the child. If the county charged claims that another county is legally responsible for these expenses, it may make a claim against the other county under section 53. The proceedings under section 53 are strictly between the counties and occur after the expenses are paid by the county in which the juvenile court proceedings are held.

Sections 54 through 57 all deal with the confidentiality of the records. These sections are all the results of legislative amendments quickly drafted under terrific pressure from the news media. As originally drafted all records from arrest to disposition were confidential and to be released only on Court order. The original sections were copied from Minnesota, but Wisconsin, Missouri and the Standard Acts all have comparable sections.

The sections were changed by the legislature to their present reading. I will attempt to take the sections together and summarize their effect on all records.

1. Arrest records - open fully to the public.
2. Probation Office Records - all confidential.
3. Court records in neglect and dependency cases - confidential opened on order of Court.
4. Court records in delinquency proceedings -
  - a. Petitions, notices, orders, decrees, and judgements, public record.
  - b. Findings, reports of probation officers - confidential, opened on Court order.

Notice that section 55 exempts "delinquency petitions filed by parents" and the amendment to section 3 makes it impossible for a parent to sign a delinquency petition.

Section 56 was originally drafted to provide that the peace officers records were private and provision was made to keep them separate for that reason. I have no idea why when the legislature took away the privacy of the records they left the provision for keeping the records separate.

Section 58 assures the right of appeal and suggests that juvenile appeal should be heard at the earliest practicable time. This section also gives all orders of the juvenile Court full force and effect pending appeal unless the Supreme Court enters a stay order.

Section 60 through 61 are copies of old Iowa laws.

Section 62 was added to the Act by legislative admendment. It is a statutory statement of previous Iowa Case Law. This act was drafted originally with exclusive jurisdiction over juveniles in the Juvenile Court and criminal prosecution only on transfer from the juvenile court. This never passed. The concurrent jurisdiction with the Criminal Court may make many of the things I have said here to date meaningless depending upon later decisions. For example, can the sections on detention of juveniles be ignored by placing the juvenile under arrest for a crime and holding him for Criminal Court? Must a juvenile held on a criminal charge be held under the provisions of this act or can he be held the same as any criminal? There have been three Attorney Generals' opinions in this area since the act went into effect. They are fairly well thought out and all of you should read them.

SF95 and SF59 were originally drafted as one bill and introduced into the 63rd legislature as SF321. This bill created a complete and logical juvenile court system, and I feel it was superior to what was finally enacted. However, while admitting that I am a little prejudicial, I am convinced that SF95 as enacted is far superior to our old chapter 232.

by Carl Parks, Chief Probation Officer, Des Moines

Section 3, Para. #8. "Guardianship of the Person" defined in this paragraph can be granted by Juvenile Court in three instances:

1. When a child is adjudicated neglected or dependent under Section 34 and is committed to State Board of Control for placement at Iowa Juvenile Home or Iowa Annie Wittenmyer Home. (See Section 36.)
2. When a child is adjudicated delinquent under Section 35 and is committed to State Board of Control for placement at Boys Training School or Girls Training School.
3. When parent-child relationship is terminated under Section 49.

Section 3, Para. #10. Limits "probation" to child's home. Should be expanded to allow child to be on probation in home of relatives or in foster home or private institution.

Section 3, Para. #11. This section provides a child may be placed under "protective supervision" in "the home" under supervision of the Court or an "agency" designated by the Court. Section 34, para. 2, is the only place in the act that "protective supervision" is again mentioned.

Questions: Should words "the home" be replaced by phrase "its own home or a foster home" in both Section 11 and Section 34, para. 2?

Section 3, Para. #13, sub-para. "b"

This section defines a delinquent child as one who has violated a federal law or a law of another State. There is a federal statute which provides that violations of Federal statutes can be referred to the Juvenile Court of child's legal residence. Where is there any authority for local juvenile court to assume jurisdiction of violations of law committed in other States?

Section 4.

Third sentence permits informal adjustment of filed petitions in delinquency case. It should be prefaced by words "In delinquency cases."

A similar sentence should follow permitting informal adjustment of filed petitions in dependency and neglect cases.

Section 18.

The meanings of the second and third sentences are not clear.

First sentence says child can be held 24 hours by arrangement of person taking child into custody. To be held longer than 24 hours judge must sign an order specifying reason for detention. The third sentence says that if child is to be held more than 48 hours unless a petition has been filed. Do these sentences infer that the child can be held from 24 to 48 hours without a petition being filed? How can judge sign order for detention of more than 24 hours unless petition is on file at end of first 24 hours?

Should third sentence be read as follows:

No child may be held longer than 48 hours unless:

1. A petition has been filed and
2. The Judge determines that
  - a. the child shall remain in custody or
  - b. the child is referred to prosecuting authority

OR

Should third sentence be read to mean

No child may be held longer than 48 hours unless:

1. A petition has been filed and the judge determines the child shall remain in custody
- (or)
2. The Court refers the matter to the prosecuting authority. (If so need a petition be on file and the referral made by written order or can judge orally or by letter refer the matter to prosecuting authority?)

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Section 18. Should compliance with Section 18 be made a condition precedent to criminal court exercising jurisdiction under Section 67?

Section 20. First sentence provides that person taking child into protective custody may hold him in adult detention facility for not more than 12 hours. Also provides that child fourteen or older can be held in adult facility on order of the judge. Does this sentence mean that children under fourteen cannot be held in adult facility on order of judge for more than 12 hours?

Does the 14 year-old child referred to in this sentence mean a delinquent child only?

Does second sentence of Section 20 refer only to children of age fourteen or older?

Section 28. Last sentence refers to adoption hearings. It should be stricken.

Section 29. The word "legal" should be inserted prior to the word "counsel".

At what age shall a child be allowed to decide whether he wants legal counsel or not?

Section 33. At what age is a child competent to waive recording?

Should parents be allowed to waive recording for children beneath that age?

Section 34, para. 4. Who is to decide whether a child goes to Iowa Juvenile Home or Annie Wittenmyer Home? The judge or the Board of Control?

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Section 34, para 5. What "public" institutions are there which are not under Board of Control?

1. School for Deaf at Council Bluffs. (Board of Regents)
2. School for Blind at Vinton. (Board of Regents)
3. Are the medical and psychopathic hospitals at Iowa City "Public institutions"?
4. Does this paragraph (or Section 34 in general) bar the court from placing children in Children's Unit at MHI at Independence or Schools for Retarded at Woodward and Glenwood or hospital for epileptics at Woodward?

Section 34, para. 6. Should second sentence of this paragraph be enlarged by adding words "or are unable" after the word "fail"?

Section 35, para. 5 & 6.

Same questions as above asked in re Section 34, para. 5 and 6.

Section 52. Does the last part of second sentence give Juvenile Court power to render a civil judgment against parents for unpaid child support?

Section 56. This paragraph mentions "delinquency petitions filed by parents". This is in conflict with Section 4 which seems to limit filing of petitions to the county attorney or probation officer.

Section 62. Should municipal courts be included in this section? As section now stands a child arraigned before a justice of peace gets the benefit of juvenile court process. A child arraigned in municipal court does not. This results in uneven application of the law to children, depending on where they are arraigned.

Section 62 (continued).

See AG opinion of 7-16-65 to Douglas J. Burris, Jackson County Attorney.

See AG opinion of 11-2-65 to W.E. Don Carlos, Adair County Attorney.

Section 67. AG opinions referred to above hold that "criminal court" in this section refers to criminal division of district court and municipal court.

General Questions

1. Should juvenile courts be given authority to impose fines for minor offenses such as illegal possession of beer, cigarettes, fireworks, illegal assembly, disturbing the peace, etc.?

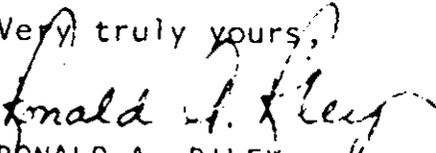
Father Cyril F. Engler  
Iowa State Manpower Develop-  
ment Council  
Corrections Division  
500 East Locust Street  
Des Moines, Iowa

September 20, 1966

Dear Father Engler:

Enclosed please find the comments of the discussion groups regarding the proposed amendments to S.F. 95 (Ch. 232, 1966 Code of Iowa), as manifested to me by the various group leaders on September 16, 1966.

Very truly yours,

  
RONALD A. RILEY  
Assistant Attorney General

DISCUSSED GROUP COMMENTS ON PROPOSED  
AMENDMENTS TO CHAPTER 232, 1962 CODE OF IOWA  
(Referenced to S.F. 95 format)

Comment is limited to those proposed amendments with which the groups took exception:

Sec. 3(13)(a). Groups favored amendment only if proposed amendment to allow exclusive, original jurisdiction to Juvenile Court would be passed.

Sec. 3(13)(c)(d). Groups favored retention of (c) and (d).

Sec. 28. Groups thought "shall" should remain. One group additionally proposed that the word "shall" in line 1, page 12, be replaced by the word "may." This latter recommendation is felt to be unnecessary as, even with retention of the mandatory "shall," the Court still has discretionary authority.

Sec. 34(5). Should possibly be extended so as to allow direct commitment to school for blind.

Sec. 35(5). Same comment.

Sec. 56. Add to the proposed amendment "psychologists."

Sec. 75. Several groups thought the age of fourteen (14) proposed should be elevated to age sixteen (16). One group felt there should be no age established, but discretionary with the Court.

It was additionally proposed that the last sentence of Sec. 57 be amended to add the word "not" between "shall" and "be."

JUDGES

HARVEY UNLENNOFF . HAMPTON  
ED J. KELLEY . . . . . AMES  
PAUL E. MELLWEGE . . . . . BOONE  
EDWARD J. FLATTERY . FT. DODGE

REPORTERS

GORDON H. LUND . . . HAMPTON  
WILMA P. DEVLIN . . . BOONE  
ALRE R. WATTS . . . CLARION  
JACK M. MANOS . . . . . FORT DODGE

JUDICIAL CHAMBERS  
DISTRICT COURT OF IOWA  
ELEVENTH JUDICIAL DISTRICT

P. O. Box 212  
Ames, Iowa  
September 12, 1966

Rev. Cyril Engler  
Iowa State Manpower Development Council  
500 East Locust Street  
Des Moines, Iowa 50319

Dear Reverend Engler:

The recommendations of Judge Eastman concerning the proposed amendments to Senate File 95 meets with my approval except the addition to Sec. 9. It is my belief that after an adequate legal notice has been served on the parties, the parties are in court and subject to call for additional hearings, in any manner prescribed by the court. I think this procedure is advantageous to the judges who have a heavy trial load together with juvenile court.

With kindest personal regards,

Sincerely yours,

*Ed J. Kelley*  
Ed J Kelley, Judge

P.S. There are several errors in numbering.

EJK

CHAPTER 215

JUVENILE COURT LAW

S. F. 95

AN ACT to amend, revise, and codify the statutes relating to dependent, neglected, and delinquent children.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapter two hundred thirty-two (232), Code 1962, is  
2 hereby repealed and sections two (2) through sixty-two (62) of this  
3 Act are enacted in lieu thereof.

1 SEC. 2. This Act shall be liberally construed to the end that each  
2 child coming within the jurisdiction of the juvenile court shall receive,  
3 preferably in his home, the care, guidance, and control that will con-  
4 duce to his welfare and the best interests of the state, and that when he  
5 is removed from the control of his parents, the court shall secure for  
6 him care as nearly as possible equivalent to that which he should have  
7 been given.

1 SEC. 3. When used in this Act, unless the context otherwise re-  
2 quires:

3 1. "Court" means the juvenile court as established under chapter  
4 two hundred thirty-one (231) of the Code.

5 2. "Judge" means the judge of the juvenile court.

6 3. "Child" means a person less than eighteen (18) years of age.

7 4. "Minor" means a person less than twenty-one (21) years of age.

8 5. "Adult" means a person twenty-one (21) years of age or older.

9 6. "Detention" means the temporary care of children who require  
10 secure custody for their own protection or the protection of the com-  
11 munity in physically restricting facilities pending court disposition.

12 7. "Shelter" means the temporary care of children in physically un-  
13 restricting facilities pending court disposition.

14 8. "Guardianship of the person" with respect to a minor means the  
15 duty and authority to make important decisions in matters having a  
16 permanent effect on the life and development of the minor and to be  
17 concerned about the general welfare of the minor. Guardianship of  
18 the person includes but is not limited to:

19 a. The authority to consent to marriage, to enlistment in the armed  
20 forces of the United States, to major medical, psychiatric, and surgical  
21 treatment, to represent the minor in legal actions, and to make other  
22 decisions of substantial legal significance concerning the minor.

23 b. The authority and duty of reasonable visitation except to the  
24 extent that such right of visitation has been limited by court order.

25 c. The rights and responsibilities of legal custody except where legal  
26 custody has been vested in another individual or in an authorized  
27 agency.

28 d. The authority to consent to the adoption of a child and to make  
29 any other decision concerning the child which could be made by the  
30 parents of the child when the parent-child relationship has been ter-  
31 minated by judicial decree with respect to the parents or the only living  
32 parent, or when there is no living parent.

33 A juvenile court guardianship of the person does not include guard-  
34 ianship of any estate of the child.

35 9. "Legal custody" means the relationship created by court decree  
36 which imposes on the custodian the responsibility of physical posses-  
37 sion of the child, the duty to protect, train, and discipline the child  
38 to provide the child with food, clothing, housing, education, and ordi-  
39 nary medical care, all subject to residual parental rights and responsa-

40 bilities and the rights and responsibilities of the guardian of the  
41 person.

42 10. "Probation" is a legal status created by court order following  
43 an adjudication of delinquency whereby a minor is permitted to remain  
44 in his home subject to supervision by the court or an agency desig-  
45 nated by the court and subject to return to the court for violation of  
46 probation at any time during the period of probation.

47 11. "Protective supervision" is a legal status created by court order  
48 in proceedings not involving violation of law but when the legal cus-  
49 tody of the child is subject to change, whereby the child is permitted  
50 to remain in the home under supervision by the court or an agency  
51 designated by the court and subject to return to the court during the  
52 period of protective supervision.

53 12. "Commit" means to transfer legal custody.

54 13. "Delinquent child" means a child:

55 a. Who has violated any state law or habitually violated local laws  
56 or ordinances except any offense which is exempted from this Act by  
57 law.

58 b. Who has violated a federal law or a law of another state and  
59 whose case has been referred to the juvenile court.

60 c. Who is uncontrolled by his parents, guardian, or legal custodian  
61 by reason of being wayward or habitually disobedient.

62 d. Who habitually deports himself in a manner that is injurious to  
63 himself or others.

64 14. "Dependent child" means a child:

65 a. Who is without a parent, guardian, or other custodian.

66 b. Who is in need of special care and treatment required by his  
67 physical or mental condition which the parents, guardian, or other

68 custodian is unable to provide.

69 c. Whose parents, guardian, or other custodian for good cause de-  
70 sires to be relieved of his care and custody.

71 15. "Neglected child" means a child:

72 a. Who is abandoned by his parents, guardian, or other custodian.

73 b. Who is without proper parental care because of the emotional,  
74 mental, or physical disability, or state of immaturity of his parents,  
75 guardian, or other custodian.

76 c. Who is without proper parental care because of the faults or  
77 habits of his parents, guardian, or other custodian.

78 d. Who is living under conditions injurious to his mental or physical  
79 health or welfare.

80 16. "News media" means representatives of newspapers, other peri-  
81 odicals, radio and television stations, and other agencies of mass com-  
82 munication.

1 SEC. 4. Whenever the court is informed that a child is in a state of  
2 neglect, dependency, or delinquency, the court shall make a preliminary  
3 investigation of the facts to determine whether the interests of the  
4 public or of the minor require that he or she be brought under the  
5 jurisdiction of the court. After the completion of the investigation,  
6 and if the court believes, in its discretion, that the child may be neg-  
7 lected, dependent, or delinquent the court shall direct the county attor-  
8 ney or probation officer to file a petition with the clerk of court. If th  
9 facts plead are admitted by the minor and consent is obtained from the  
10 parents, or guardian of the minor, the court may make whatever  
11 informed adjustment is practical without holding a formal hearing.  
12 Efforts to affect informal adjustment may be continued not longer  
13 than three (3) months without review by the judge.

14 The petition and subsequent court documents shall be entitled "In  
15 the interest of ....., a child." The petition shall be veri-  
16 fied and any statements may be made upon information and belief.

17 The petition shall set forth plainly:

18 1. The facts which bring the child within the purview of this Act.

19 2. The name, age, and residence of the child.

20 3. The names and residences of the parents of the child.

21 4. The name and residence of the legal guardian of the child if there  
22 be one, of the person or persons having custody or control of the child,  
23 or of the nearest known relative of the child if no parent or guardian  
24 can be found.

25 If any of the facts herein required are not known by the petitioner  
26 the petition shall so state.

27 Complaint with reference to more than one (1) child may be em-  
28 braced in one (1) count of the petition subject to being later divided  
29 or separate hearings held on order of the court.

1 SEC. 5. After a petition has been filed and unless the parties named  
2 in section six (6) of this Act voluntarily appear, the court shall set a  
3 time for hearing and shall issue a summons requiring the person who  
4 has custody or control of the child to appear with the child before the  
5 court at a time and place stated. The summons shall recite briefly the  
6 substance of the petition or shall have attached a copy of the petition  
7 and shall give notification of the right to counsel provided for in sec-  
8 tion twenty-nine (29) of this Act.

1 SEC. 6. The court shall have notice of the pendency of the case and  
2 of the time and place of the hearing served upon the parents, guardian,  
3 or legal custodian of a legitimate child or upon the mother, guardian

4 or legal custodian of an illegitimate child if they are not summoned to  
5 appear as provided in section five (5) of this Act. The notice shall  
6 recite briefly the substance of the petition or shall have attached a copy  
7 of the petition and shall give notification of the right to counsel pro-  
8 vided for in section twenty-nine (29) of this Act.

1 SEC. 7. The court may issue a subpoena requiring the appearance  
2 of any other person whose presence in the opinion of the court is neces-  
3 sary at the hearing. A parent or guardian shall be entitled to subpoena  
4 the attendance of witnesses on his own behalf or on behalf of the child.

1 SEC. 8. If it appears from the petition or by separate affidavit of a  
2 person having knowledge of the fact that the child is in such condition  
3 or surroundings that the welfare of the child requires that custody be  
4 immediately assumed by the court, the court may order by endorse-  
5 ment on the summons that the officer serving the summons take the  
6 child into custody immediately.

1 SEC. 9. Service of the summons shall be made personally by the  
2 delivery of an attested copy thereof to the person summoned to appear.  
3 If the judge is satisfied that personal service of the notice provided for  
4 in section six (6) of this Act is impracticable, the judge may order  
5 service by certified mail addressed to the last known address or by  
6 publication or both. Service of notice or summons shall be made not  
7 less than five (5) days before the time fixed for the hearing.

1 SEC. 10. Service of summons, process, or notice required by this  
2 Act may be made by any suitable person under the direction of the  
3 court and upon request of the court shall be made by any peace officer.

1 SEC. 11. If any person personally served with a summons or sub-  
2 poena fails without reasonable cause to appear or to bring the child,  
3 the person may be proceeded against for contempt of court or the court  
4 may issue a warrant for the arrest of the person or both. When it  
5 appears to the court that the service will be ineffectual or that the wel-  
6 fare of the child will require that the child be brought forthwith into  
7 the custody of the court, the court may issue a warrant for the child.

1 SEC. 12. The hearing on the merit of the petition shall not take  
2 place without the presence of one (1) or both of the parents or the  
3 guardian, or if none is present a guardian ad litem shall be appointed  
4 by the court to protect the interests of the child. The court may also  
5 appoint a guardian ad litem whenever necessary for the welfare of the  
6 child whether or not a parent or guardian is present.

1 SEC. 13. When it appears during the course of any trial, hearing,  
2 or proceeding that some action or remedy other than or in addition to  
3 those indicated by the application or pleadings appears appropriate,  
4 the court may, provided all necessary parties consent, proceed to hear  
5 and determine the additional or other issues as though originally prop-  
6 erly sought and pleaded.

1 SEC. 14. The court may order that a child for whom a petition has  
2 been filed shall be examined by a physician, surgeon, psychiatrist, or  
3 psychologist and may order treatment by them of a child who has been  
4 adjudicated by the court. The court may place the child in a hospital  
5 or other suitable facility for such examination or treatment.

1 SEC. 15. No decree other than discharge shall be entered until a  
2 written report of a social investigation by an officer of the court has

3 been presented to and considered by the judge. Where the allegations  
4 of the petition are denied by the child or his parents, guardian, or  
5 custodian by written denial filed not later than two (2) days excluding  
6 Sundays and holidays after service of summons as required in section  
7 five (5) of this Act or at the time the parties appear voluntarily, the  
8 investigation shall not be made until after the allegations have been  
9 established at a hearing. The investigation shall include the circum-  
10 stances of the offense or complaint, the social history and present con-  
11 dition of the child and family, and plans for the child's immediate care,  
12 as related to the decree. In cases of support, the investigation shall  
13 also include such matters as earnings, financial obligations, and em-  
14 ployment.

1 SEC. 16. No child may be taken into immediate custody except:

2 1. With an order issued by the court in accordance with the provi-  
3 sions of section eight (8) of this Act or by a warrant issued in ac-  
4 cordance with the provisions of section eleven (11) of this Act.

5 2. In accordance with the laws relating to arrests.

6 3. By a peace officer:

7 a. When it is reasonably believed that a child has run away from his  
8 parents, guardian, or custodian.

9 b. When a child is found in surroundings or conditions which en-  
10 danger the health or welfare of the child.

11 4. By a peace officer or probation or parole officer when it is reason-  
12 ably believed that the child has violated the terms of his probation,  
13 parole, or other official supervision.

14 The taking of a child into custody under the provisions of this sec-  
15 tion shall not be considered an arrest.

1 SEC. 17. When a child is taken into custody as provided in section  
2 sixteen (16) of this Act, the parents, guardian, or custodian of the  
3 child shall be notified as soon as possible by the person taking the child  
4 into custody. Except where the immediate welfare of the child or the  
5 protection of the community requires that the child shall be detained,  
6 the child shall be released to the custody of the parents, guardian,  
7 custodian, or other suitable person on the promise of such person to  
8 bring the child to the court, if necessary, at such time as the court  
9 may direct.

1 SEC. 18. If a child is not released as provided in section seventeen  
2 (17) of this Act, the person taking the child into custody shall notify  
3 the court as soon as possible of the detention of the child and the rea-  
4 sons for the detention. The child shall be taken immediately to a place  
5 of detention specified in section nineteen (19) of this Act and may be  
6 held for not longer than twenty-four (24) hours after the taking into  
7 custody unless an order for detention specifying the reason for the  
8 detention is signed by the judge. No child may be held longer than  
9 forty-eight (48) hours after the taking into custody unless a petition  
10 has been filed and the judge determines that the child shall remain in  
11 custody or unless the court refers the matter to the prosecuting au-  
12 thority for proper action in the criminal court. The parents, guardian,  
13 or custodian of the child shall be notified of the place of detention as  
14 soon as possible. If continued detention is not ordered, the court or  
15 designated officer shall release the child in the manner provided in  
16 section seventeen (17) of this Act.

1 SEC. 19. A child may be detained as provided in section eighteen  
2 (18) of this Act in one of the following places:

- 3 1. A juvenile home.
- 4 2. A licensed facility for foster care in accordance with the laws re-  
5 lating to facilities for foster care.
- 6 3. A suitable place designated by the court.
- 7 4. A room entirely separate from adults in a jail, lockup, police sta-  
8 tion, or other adult detention facility as provided in section twenty  
9 (20) of this Act.

1 SEC. 20. No child shall at any time be confined in a police station,  
2 lockup, jail, or prison except that a child may be detained for the pur-  
3 pose of protective custody for a period not to exceed twelve (12) hours  
4 or a child fourteen (14) years of age or older may upon the order of  
5 the judge be temporarily confined in a room entirely separate from  
6 adults in an adult detention facility. A child may be detained in an  
7 adult detention facility upon order of the judge only if the child is  
8 alleged to be delinquent and has shown by his habits, conduct, or con-  
9 ditions that he constitutes a menace to himself or society to the extent  
10 that he cannot be released or cannot be detained in a place designated  
11 in subsections one (1), two (2), or three (3), of section nineteen (19)  
12 of this Act.

1 SEC. 21. The sheriff, warden, or other official in charge of a jail  
2 or other facility for the detention of adult offenders or persons charged  
3 with crimes shall inform the juvenile court immediately when a child  
4 who is or appears to be under eighteen (18) years of age is received  
5 at the facility.

1 SEC. 22. County boards of supervisors may either singly or in con-  
2 junction with one (1) or more other counties provide and maintain,  
3 separate, apart, and outside the enclosure of any jail or police station

4 a suitable juvenile home for dependent, neglected, and delinquent chil-  
5 dren. Such a home shall be constructed so far as practicable so that  
6 children requiring detention shall be separated from the children re-  
7 quiring shelter.

1 SEC. 23. For the purpose of providing and maintaining a county or  
2 multicounty juvenile home, the board of supervisors of any county may  
3 issue bonds and authorize the expenditure of such amounts as are con-  
4 sistent with the provisions of chapter three hundred forty-five (345)  
5 of the Code. The board of supervisors of any county is authorized to  
6 levy a tax not to exceed one-half ( $\frac{1}{2}$ ) mill for the purpose of main-  
7 taining a county or multicounty juvenile home. Expenses for provid-  
8 ing and maintaining a juvenile home shall be paid by the county or  
9 counties participating in a manner to be determined by board or  
10 boards of supervisors of participating counties.

1 SEC. 24. Upon request of the board of supervisors, the county  
2 board or county boards of education shall provide suitable curriculum,  
3 teaching staff, books, supplies, and other necessary materials and  
4 equipment for the instruction of children of school age who are de-  
5 tained in the juvenile home.

1 SEC. 25. The state board of social welfare shall adopt minimal  
2 rules, regulations, and standards for the establishment, maintenance,  
3 and operation of juvenile homes as shall be necessary to effect the pur-  
4 poses of this Act. Said board shall, upon request, give guidance and  
5 consultation in the establishment and administration of a juvenile  
6 home and a juvenile home program.

1 SEC. 26. The state board of social welfare shall approve annually  
2 all county or multicounty juvenile homes established and maintained  
3 under the provisions of this Act. No county or multicounty juvenile  
4 home shall be approved unless such homes comply with minimal rules,  
5 regulations, and standards adopted by said board.

1 SEC. 27. Approved county or multicounty juvenile homes may be  
2 entitled to receive financial aid from the state in the amount and in  
3 such manner as determined by the state board of social welfare. Aid  
4 paid by the state shall not exceed fifty (50) percent of the total cost  
5 of the establishment, improvements, operation, and maintenance of a  
6 juvenile home.

1 SEC. 28. Hearings on any matter shall be without a jury and may  
2 be conducted in an informal manner. Hearings may be continued from  
3 time to time and in the interim the court may make such orders as it  
4 deems in the best interests of the child. The court shall exclude the  
5 general public from hearings and shall admit the news media, except  
6 in those cases which in the opinion of the court the best interest of the  
7 child and the public are served by a private hearing. The court shall  
8 also admit those persons who in the discretion of the court have a  
9 direct interest in the case or in the work of the court; except that if  
10 the hearing involves a child charged by information or indictment with  
11 the commission of a felony, persons having a legitimate interest in the  
12 proceedings, including responsible representatives of public informa-  
13 tion media, shall not be excluded from such hearings. The court may  
14 require the presence of witnesses deemed necessary to the disposition  
15 of the petition. Adoption hearings shall be conducted in accordance  
16 with the provisions of laws relating to adoption.

1 SEC. 29. The child, parents, guardian, or custodian shall have the  
2 right to counsel. If the minor, parents, guardian, or custodian desire  
3 but are unable to employ counsel, such counsel shall be appointed by  
4 the court.

1 SEC. 30. The county attorney shall present the evidence upon re-  
2 quest of the court in all proceedings except adoptions.

1 SEC. 31. Except in delinquency proceedings based on the alleged  
2 commission of a public offense, the court may waive the presence of  
3 the child in the court at any stage of the proceedings when the court  
4 deems it in the best interests of the child. In delinquency proceedings  
5 if the child is found to be delinquent, the court after the finding of  
6 delinquency is made may excuse the presence of the child from the  
7 hearing when the court deems it in the best interests of the child. In  
8 any proceedings, the court may temporarily excuse the presence of the  
9 parents or guardian of a child from the hearing when the court deems  
10 it in the best interests of the child. The attorney or guardian ad litem,  
11 if any, has the right to continue to participate in proceedings during  
12 the absence of the child, parents, or guardian.

1 SEC. 32. The child and his parents, guardian, or custodian are en-  
2 titled to be heard, to present evidence material to the case, and to  
3 question witnesses appearing at the hearing.

1 SEC. 33. Stenographic notes or mechanical recordings shall be re-  
2 quired in all court hearings as in other civil cases unless the parties  
3 waive the right to such records and the court so orders.

1 SEC. 34. If the court finds that the child is neglected or dependent,

2 the court shall enter an order making any one (1) or more of the fol-  
3 lowing dispositions of the case:

4 1. Continue the proceedings from time to time under such supervi-  
5 sion as the court may direct.

6 2. Place the child under the protective supervision of the county de-  
7 partment of social welfare or a child placing agency in the home of the  
8 child under conditions prescribed by the court directed to the correc-  
9 tion of the neglect or dependency of the child.

10 3. Transfer legal custody of the child, subject to the continued jurisdic-  
11 tion of the court, to one (1) of the following:

12 a. A child placing agency.

13 b. The county or state department of social welfare.

14 c. A reputable individual of good moral character.

15 4. Commit the child to the state board of control for placement at  
16 the Iowa juvenile home or the Iowa Annie Wittenmyer home.

17 5. Commit to or place the child in any private institution or hospital  
18 for the care and training of children or any public institution for the  
19 care and training of children other than an institution under the jurisdic-  
20 tion of the state board of control.

21 6. If the child is in need of special treatment or care for his physical  
22 or mental health, the court may order the parents, guardian, or cus-  
23 todian of the child to provide such treatment or care. If the parents,  
24 guardian, or custodian fail to provide the treatment or care, the court  
25 may order the treatment or care provided.

26 7. At any time while the child is under the jurisdiction of the court  
27 the court may terminate the proceedings and order the child released  
28 from the control of the court.

1 SEC. 35. If the court finds that the child is delinquent, the court  
2 shall enter an order making any one (1) or more of the following dis-  
3 positions of the case:

4 1. Continue the proceeding from time to time under such supervi-  
5 sion as the court may direct.

6 2. Place the child under the supervision of a probation officer or  
7 other suitable person in the home of the child.

8 3. Subject to the continued jurisdiction of the court, transfer legal  
9 custody of the child to one (1) of the following:

10 a. A child placing agency.

11 b. A probation department.

12 c. A reputable individual of good moral character.

13 4. Commit the child to the state board of control for placement at a  
14 state training school.

15 5. Commit to or place the child in any private institution or hospital  
16 for care and training or any public institution for care and training  
17 other than an institution under the jurisdiction of the state board of  
18 control.

19 6. If the child is in need of special treatment or care for his physica.  
20 or mental health, the court may order such treatment or care provided  
21 by the parents, guardian, or custodian of the child. If the parents,  
22 guardian, or custodian fail to provide the treatment or care, the court  
23 may order the treatment or care provided.

24 7. At any time while the child is under the court's jurisdiction, the  
25 court may terminate the proceedings and order the child released from  
26 the control of the court.

1 SEC. 36. Commitment to the state board of control shall vest  
2 guardianship of the person of the child so committed in the board and  
3 shall terminate the court's jurisdiction.

1 SEC. 37. All orders for supervision, custody, or commitment shall  
2 be enforced until the minor reaches the age of twenty-one (21) years  
3 unless otherwise specified by the court. All orders shall be reviewed by  
4 the court at least annually unless the court's jurisdiction has been ter-  
5 minated. The court may make on its own motion or on the motion of  
6 an interested party and after notice to the parties and a hearing some  
7 other disposition of the case so long as the court retains jurisdiction.

1 SEC. 38. Any person, agency, or institution to whom legal custody  
2 is transferred shall report to the court in writing at such periods as  
3 the court may direct.

1 SEC. 39. When the court transfers legal custody of a minor to any  
2 agency or commits a minor to any institution, the court shall transmit  
3 its order, a copy of its findings, and a summary of its information con-  
4 cerning the minor to the agency or institution.

1 SEC. 40. Jurisdiction of a minor on probation or under protective  
2 supervision may in cases of change of residency be transferred to the  
3 court of the county wherein the new residence is established. There-  
4 upon that court will have the same power with respect to the minor  
5 that it would have had if the petition had been initiated in that court.

1 SEC. 41. No termination of the relationship between the parents  
2 and a child shall be ordered under the provisions of this Act except  
3 pursuant to the provisions set forth in sections forty-two (42) through

4 fifty-one (51) of this Act. Sections forty-two (42) through fifty-one  
5 (51) of this Act shall apply only to a petition to terminate the rela-  
6 tionship between parent and child.

1 SEC. 42. The court may upon petition terminate the relationship  
2 between parent and child:

3 1. With the written consent of parents who for good cause desire to  
4 terminate the parent-child relationship.

5 2. If the court finds that one (1) or more of the following conditions  
6 exist:

7 a. That the parents have abandoned the child.

8 b. That the parents have substantially and continuously or repeat-  
9 edly refused to give the child necessary parental care and protection.

10 c. That although financially able, the parents have substantially and  
11 continuously neglected to provide the child with necessary subsistence,  
12 education, or other care necessary for physical or mental health or  
13 morals of the child or have neglected to pay for subsistence, education,  
14 or other care of the child when legal custody is lodged with others.

15 d. That the parents are unfit by reasons of debauchery, intoxication,  
16 habitual use of narcotic drugs, repeated lewd and lascivious behavior,  
17 or other conduct found by the court likely to be detrimental to the  
18 physical or mental health or morals of the child.

19 e. That following an adjudication of neglect or dependency, reason-  
20 able efforts under the direction of the court have failed to correct the  
21 conditions leading to the termination.

1 SEC. 43. Venue for the proceedings for the termination for parents  
2 rights is either the county where the child resides or is found. If a  
3 court has made an order under the provisions of section thirty-four

4 (34) of this Act and the order is in force at the time the petition for  
5 termination of the parent relationship is filed, the court making the  
6 order shall hear the termination proceeding unless the court transfers  
7 the proceeding to another juvenile court where venue lies.

1 SEC. 44. Any reputable person, except a parent of the child or  
2 children involved, having knowledge of circumstances which indicate  
3 that a parent-child relationship should be terminated may petition the  
4 court in the manner provided in section four (4) of this Act.

1 SEC. 45. The termination of parent-child relationship shall be  
2 made only after a hearing before the court in the manner provided in  
3 section twenty-eight (28) of this Act.

1 SEC. 46. The court shall have notice of the time, place, and purpose  
2 of the hearing served on the parents of the child, the petitioner, the  
3 guardian of the person of the child, the person having legal custody of  
4 the child, any individual standing in loco parentis of the child, and the  
5 guardian ad litem of any party. Notice shall be given in the manner  
6 provided for in sections five (5) through ten (10) of this Act, except  
7 that notice by personal service shall be made at least ten (10) days  
8 before the day of the hearing, published notice shall be made for three  
9 (3) consecutive weeks, the last publication to be at least ten (10) days  
10 before the day of the hearing, and notice sent by certified mail shall be  
11 mailed at least twenty (20) days before the day of the hearing. A  
12 parent who consents to the termination may waive in writing the  
13 notice required by this section. If the parent is incompetent the waiver  
14 shall be effective only if the guardian ad litem of the parent concurs  
15 in writing.

1 SEC. 47. The court's finding with respect to grounds for termina-  
2 tion shall be based upon a preponderance of evidence under the rules  
3 applicable to the trial of civil cases, provided that relevant and mate-  
4 rial information of any nature including that contained in reports,  
5 studies, or examinations may be admitted and relied upon to the extent  
6 of its probative value. When information contained in a report, study,  
7 or examination is admitted in evidence, the person making such a  
8 report, study, or examination shall be subject to both direct and cross-  
9 examination when reasonably available.

1 SEC. 48. If after a hearing the court does not terminate the parent-  
2 child relationship but determines that conditions of neglect or depend-  
3 ency exist, the court may find the child neglected or dependent and may  
4 enter an order in accordance with the provisions of section thirty-four  
5 (34) of this Act.

1 SEC. 49. If after a hearing the court terminates the parent-child  
2 relationship between the child and both parents or between the child  
3 and the mother if the child is born out of wedlock or between the child  
4 and the only living parent, the court shall order guardianship of the  
5 person and legal custody of the child transferred to:

- 6 1. The court, or state department of social welfare.
- 7 2. A licensed child placing agency.
- 8 3. A reputable individual of good moral character.
- 9 4. The state board of control for placement at the Iowa Annie Wit-  
10 tenmyer home or the Iowa juvenile home.

1 SEC. 50. A certified copy of the findings in the order terminating  
2 the parent-child relationship and a summary of the court's information

3 concerning the child shall be provided by the court to the department,  
4 agency, or institution to which guardianship is transferred. The  
5 orders shall be on a document separate from the findings. The court  
6 shall furnish the individual to whom guardianship is transferred a  
7 copy of the order terminating the parent-child relationship.

1 SEC. 51. Upon its own motion or upon petition of an interested  
2 party, the court having jurisdiction of the child may after notice to the  
3 parties and a hearing remove the guardian appointed by the court and  
4 appoint a new guardian in accordance with the provisions of subsec-  
5 tions one(1), two (2), and three (3) of section forty-nine (49) of this  
6 Act. Any minor fourteen (14) years of age or older who is not adopted  
7 but who is placed in a satisfactory foster home may with the consent  
8 of the foster parents join with the guardian appointed by the court in  
9 a petition to the court having jurisdiction of the child to discharge the  
10 existing guardian and appoint the foster parents as guardians of the  
11 child. The authority of a guardian appointed by the court terminates  
12 when the individual under guardianship is no longer a minor or is  
13 adopted.

1 SEC. 52. Whenever legal custody of a minor is transferred by the  
2 court or whenever the minor is placed by the court with someone other  
3 than the parents or whenever a minor is given physical or mental  
4 examinations or treatment under order of the court and no provision  
5 is otherwise made by law for payment for the care, examination, or  
6 treatment of the minor, the costs shall be charged upon the funds of  
7 the county in which the proceedings are held upon certification of the  
8 judge. Except where the parent-child relationship is terminated, the  
9 court may inquire into the ability of the parents to support the minor

10 and after giving the parents a reasonable opportunity to be heard may  
11 order the parents to pay in the manner and to whom the court may  
12 direct, such sums as will cover in whole or in part the cost of care,  
13 examination, or treatment of the minor. If the parents fail to pay the  
14 sum without good reason, the parents may be proceeded against for  
15 contempt or the court may inform the county attorney who shall pro-  
16 ceed against the parents to collect the unpaid sums or both.

1 SEC. 53. The following expenses upon certification of the judge or  
2 upon such other authorization as provided by law are a charge upon  
3 the county in which the proceedings are held.

4 1. The fees and mileage of witnesses and the expenses and mileage  
5 of officers serving notices and subpoenas.

6 2. The expenses of transporting a child to a place designated by a  
7 child placing agency for the care of the child if the court transfers  
8 legal custody to a child placing agency.

9 3. The expense of transporting a child to or from a place designated  
10 by the court.

11 4. Reasonable compensation for an attorney appointed by the court  
12 to serve as counsel or guardian ad litem.

1 SEC. 54. The county charged with the cost and expenses under sec-  
2 tions fifty-two (52) and fifty-three (53) of this Act may recover the  
3 costs and expenses from the county where the child has legal settle-  
4 ment by filing verified claims which shall be payable as are other claims  
5 against the county. A detailed statement of the facts upon which the  
6 claim is based shall accompany the claim. Any dispute involving the  
7 legal settlement of a child for which the court has ordered payment  
8 under authority of this section shall be settled in accordance with sec-

9 tions two hundred fifty-two point twenty-two (252.22) and two hun-  
10 dred fifty-two point twenty-three (252.23) of the Code.

1 SEC. 55. The legal record of the juvenile court shall be a public  
2 record, and shall include the petition, information or indictment,  
3 notices, orders, decrees and judgments.

1 SEC. 56. The proceedings concerning delinquency petitions filed by  
2 parents and petitions concerning neglected or dependent children; the  
3 reports of juvenile court probation officers; and the reports on juvenile  
4 homes shall not be public records, but the court may make them public  
5 in its discretion.

1 SEC. 57. Peace officers' records of children except for offenses  
2 exempted from this Act by law shall be kept separate from the records  
3 of persons eighteen (18) years of age or older. These records shall be  
4 public records.

1 SEC. 58. All information obtained and social records prepared in  
2 the discharge of official duties by an employee of the court shall not be  
3 disclosed directly or indirectly to any one other than the judge or  
4 others entitled under this Act to receive such information unless other-  
5 wise ordered by the judge.

1 SEC. 59. An interested party aggrieved by any order or decree of  
2 the court may appeal to the supreme court for review of questions of  
3 law and fact. The procedure for such appeals shall be governed by the  
4 same provisions applicable to appeals from the district court except  
5 when the decree or order affects the custody of a minor the appeal shall  
6 be heard at the earliest practicable time. The pendency of an appeal  
7 or application therefor shall not suspend the order of the juvenile court

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7 or application therefor shall not suspend the order of the juvenile court

8 regarding a minor and shall not discharge the minor from the custody  
9 of the court or of the person, institution, or agency to whose care the  
10 minor has been committed or placed unless otherwise ordered by the  
11 supreme court on application of an appellant. If the supreme court  
12 does not dismiss the proceedings and discharge the minor, said court  
13 shall affirm or modify the order of the juvenile court and remand the  
14 minor to the jurisdiction of the court for disposition not inconsistent  
15 with the supreme court's finding on the appeal.

1 SEC. 60. The juvenile court and all institutions receiving children  
2 shall between the first (1st) and fifteenth (15th) day of January of  
3 each year make a report to the state board of social welfare. The  
4 report shall state the number of children of each sex brought before  
5 the court during the past year, the number for whom homes have been  
6 provided, the number sent to state institutions, and the number in  
7 institutions.

1 SEC. 61. The court in committing a child shall place such child as  
2 far as practicable in the care and custody of an individual or an insti-  
3 tution controlled by persons holding the same religious belief as the  
4 parents of the child.

1 SEC. 62. Any child taken before any justice of the peace or police  
2 court charged with a public offense shall, together with the case, be at  
3 once transferred by said court to the juvenile court.

1 SEC. 63. Chapter two hundred forty-two (242), Code 1962, is here-  
2 by amended by adding the following new section:

3 "The board of control may transfer to the schools minor wards of  
4 the state from any institution under its charge but no person shall be

5 so transferred who is mentally ill or mentally retarded. Any child in  
6 the schools who is mentally ill or mentally retarded may be transferred  
7 by the board to the proper state instutution."

1 SEC. 64. Section two hundred thirty-three point five (233.5), Code  
2 1962, is hereby amended by striking from lines three (3) and four (4)  
3 the words\*"section 232.2" and inserting in lieu thereof the words  
4 "subsection fourteen (14) of section three (3) of this Act".

1 SEC. 65. Section two hundred forty-two point six (242.6), Code  
2 1962, is hereby amended by striking from line two (2) the word "ten"  
3 and inserting in lieu thereof the word "twelve (12)".

1 SEC. 66. If any provision of this Act or the application thereof to  
2 any person shall be invalid, such invalidity shall not affect the provi-  
3 sions or application of this Act which can be given effect without the  
4 invalid provisions or application, and to this end the provisions of the  
5 Act are declared severable.

1 SEC. 67. The criminal court shall have concurrent jurisdiction  
2 with the juvenile court over children less than eighteen years of age  
3 who commit a criminal offense.

Approved June 7, 1965.

\* According to enrolled Act.