

Dear Madam Secretary:

I hereby transmit Senate File 2320, an Act relating to state aid to school corporations and providing effective date and applicability provisions.

Senate File 2320 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 3 and Section 16, in their entirety. These provisions would change the date on which the Department of Management is required to compute a state percent of growth under Chapter 257, the school foundation program. Because the provisions of Senate File 2351 establish a new method for determining the state percent of growth, and are in conflict with Senate File 2320, these items cannot be approved.

I am unable to approve the items designated as Section 4, Section 5, and Section 13, in their entirety. These sections would recalculate the special education support services cost per pupil based on the revised weighted enrollment established by this Act. The special education support services cost per pupil for the 1993 fiscal year should not be changed, and I am unable to approve these items. Notwithstanding the disapproval of these provisions, the budget for area education agency special education support services will increase by more than \$5 million in the 1993 fiscal year.

I am unable to approve the item designated as Section 7, in its entirety. Because the provisions of this section are inconsistent with the provisions of Senate File 2371, which has previously been approved, this item cannot be approved.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2320 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, Governor

CHAPTER 1231

JUVENILE AND CRIMINAL JUSTICE

H.F. 2452

AN ACT relating to juvenile and criminal justice, establishing a juvenile court judges commission, making appropriations, establishing and increasing penalties, granting the juvenile court jurisdiction over chronic runaways, expanding provisions for automatic waiver to adult court, establishing a youthful offender program, and altering provisions concerning the commission of burglary, providing implementation and effective date provisions, and providing for related matters.

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

**Section 1. COURT-ORDERED SERVICES PROVIDED TO JUVENILES. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

Payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4:

..... \$ 3,990,000

*Item veto; see message at end of the Act

1. Notwithstanding section 232.141 or any other provision of law, the funds appropriated in this section shall be allocated to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination on the allocations on or before June 15, 1992.

2. Each judicial district shall continue the planning group for the court-ordered services for juveniles provided in that district which was established pursuant to 1991 Iowa Acts, chapter 267, section 119. A planning group shall continue to perform its duties as specified in that law. Reimbursement rates for providers of court-ordered evaluation and treatment services paid under section 232.141, subsection 4, shall be negotiated with providers by each judicial district's planning group.

Each district planning group shall submit an annual report in January 1993 to the state court administrator and the department of human services. The report shall cover the preceding fiscal year and shall include a preliminary report on the current fiscal year. The administrator shall compile these reports and submit the reports to the chairpersons and ranking members of the joint justice appropriations subcommittee and the legislative fiscal bureau.

3. The judicial department shall develop policies and procedures to ensure that the funds appropriated in this section are spent only after all other reasonable actions have been taken to utilize other funding sources and community-based services. The policies and procedures shall be designed to achieve the following objectives relating to services provided under chapter 232:

a. Maximize the utilization of funds which may be available from the medical assistance program including usage of the early and periodic screening, diagnosis, and treatment (EPSDT) program.

b. Recover payments from any third-party insurance carrier which is liable for coverage of the services, including health insurance coverage.

c. Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs paid to those providers.

4. The judicial department, in consultation with the department of human services and the judicial district planning groups, shall compile a monthly report describing spending in the districts for court-ordered services for juveniles, including the utilization of the medical assistance program. The reports shall be submitted on or before the twentieth day of each month to the chairpersons and ranking members of the joint justice appropriations subcommittee and the legislative fiscal bureau.

5. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds to pay for all court-related services during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively request the state court administrator to transfer funds between the districts' allocations as prudent.

6. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

7. Of the funds appropriated in this section, up to \$200,000 may be used by the judicial department for administration of the requirements under this section and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.*

Sec. 2. HOMELESS, ABUSED, AND RUNAWAY JUVENILES. Of the moneys appropriated under the federal National Affordable Housing Act of 1990 and received in the fiscal year beginning July 1, 1991, \$200,000 shall be used in order to provide at least 10 new shelter care beds for juveniles who are homeless, abandoned, abused, have run away from home, or are

*Item veto; see message at end of the Act

otherwise unable to safely remain in their home and who are not provided services by the department of human services or the court at the time the shelter care begins. The grants shall be awarded in accordance with federal requirements in order to provide the beds in the areas of the state with the greatest proportion of juveniles who are at risk of being homeless, abandoned, abused, or otherwise unable to remain safely in their home.

**Sec. 3. DRUG ABUSE RESISTANCE EDUCATION. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made for the following purpose for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For use by the department to provide law enforcement officials for project D.A.R.E. (drug abuse resistance education) within local communities targeted to fifth and sixth grade students:
..... \$ 28,500*

**Sec. 4. PILOT PROGRAMS FOR RUNAWAYS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

- 1. For a pilot program for runaways in Woodbury county:*
..... \$ 20,000
- 2. For a pilot program for runaways in Polk county:*
..... \$ 30,000

*The pilot programs shall involve joint efforts by local courts, law enforcement agencies, shelter care facilities, and family-centered service providers which contract with the department of human services. The programs shall identify runaways and children at risk of running away from home and shall identify available and needed services. The programs shall use a family-oriented approach intended to assist families in dealing with the various issues related to runaways. The local courts shall cooperate with the programs and shall enter appropriate orders to facilitate the implementation of the programs and the provision of services by the programs to runaways and children at risk of running away.**

**Sec. 5. CENTRALIZED JUVENILE INTAKE CENTER. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For the development of a centralized juvenile intake center in a county with a population of more than 300,000, as determined pursuant to the 1990 federal census:
..... \$ 125,000

*The department of human services shall work with the judicial department, local law enforcement agencies, youth service agencies, and other persons as necessary in the development and operation of a centralized juvenile intake center in a county with a population of more than 300,000, as determined pursuant to the 1990 federal census. The centralized juvenile intake center shall serve as a central location for the placement, prior to adjudication, of juveniles involved in delinquency or child in need of assistance proceedings pursuant to chapter 232. The center shall be staffed by a juvenile court officer and a youth services aide. The center shall be used to provide a safe and secure setting for juveniles prior to adjudication, during the assessment of their cases.**

**Sec. 6. SUMMER WORK AND LEARN ALTERNATIVE FOR INNER CITY YOUTH.*

1. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

*Item veto; see message at end of the Act

For the award of a grant to a model program managed by the Sioux City community school district, to provide a summer work and learn alternative for inner city youth:

..... \$ 75,000

2. The judicial department shall award a grant to a model program managed by the Sioux City community school district, to provide a summer work and learn alternative for inner city youth. The judicial department shall develop criteria for the operation of the model program. At a minimum, the model program shall do each of the following:

- a. Utilize existing resources to the greatest extent possible.
- b. Have the support and involvement of a broad array of existing community programs.
- c. Have a duration of at least ten weeks.
- d. Provide a work or community service component.
- e. Provide a career development component, including intensive exploration of work options and related prerequisite skills.
- f. Provide a teaching and learning component, including reading and language skills, mathematics skills, and basic keyboard and computer literacy.
- g. Provide a social skills training component.
- h. Provide an athletics and physical fitness component.
- i. Provide a health assessment component, including referral to appropriate health care or service providers.
- j. Provide a total program evaluation component.*

Sec. 7. Section 123.46, subsection 4, Code 1991, is amended to read as follows:

4. Upon the expiration of two years following conviction for a violation of this section, a person may petition the court to exonerate the person of the conviction, and if the person has had no other criminal convictions, other than simple misdemeanor violations of chapter 321 during the two-year period, ~~the court shall order the person shall be deemed exonerated of the offense and the record expunged as a matter of law.~~ Upon entry of an order exonerating the person The court shall enter an order exonerating the person of the conviction, and ordering that the record of the conviction shall be expunged by the clerk of the district court.

Sec. 8. Section 123.47, Code 1991, is amended to read as follows:

123.47 PERSONS UNDER LEGAL THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under ~~legal~~ the age of eighteen, and a person or persons under ~~legal~~ the age of eighteen shall not individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under ~~legal~~ the age of eighteen within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under ~~legal~~ the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

Sec. 9. Section 123.47A, Code 1991, is amended to read as follows:

123.47A PERSONS AGE EIGHTEEN, NINETEEN, AND TWENTY – PENALTY.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age ~~eighteen~~, eighteen, nineteen, or twenty. A person age ~~eighteen~~, eighteen, nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age ~~eighteen~~, eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge and consent of the person's parent or guardian, and a person age ~~eighteen~~, eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who ~~violates~~ commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a second

*Item veto: see message at end of the Act

or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

2. For the purpose of determining if a violation charged is a second or subsequent offense, a conviction or plea of guilty to a violation of this section shall be counted as a previous offense.

Sec. 10. Section 232.2, subsection 4, paragraph f, Code Supplement 1991, is amended to read as follows:

f. When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

*Sec. 11. Section 232.2, subsection 6, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. Who is voluntarily absent without permission from the child's home or placement for a period of time exceeding one week, or who is voluntarily absent without permission from the child's home or placement for a period of time exceeding twenty-four hours on each of three or more separate occasions in a three-month period, and whose health, safety, and welfare are at risk.*

Sec. 12. Section 232.8, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The supreme court shall prescribe rules under section 602.4202 to resolve jurisdictional and venue issues when juveniles who are placed in another court's jurisdiction are alleged to have committed subsequent delinquent acts.

*Sec. 13. Section 232.8, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The juvenile court shall retain jurisdiction over persons who attain their eighteenth birthday, as necessary to effectuate the provisions of sections 232.50 and 232.52 through 232.54 pertaining to the youthful offender program, for a period of up to three years beyond the delinquent's eighteenth birthday.*

Sec. 14. Section 232.22, subsection 1, Code Supplement 1991, is amended to read as follows:

1. ~~No~~ A child shall not be placed in detention unless one of the following conditions is met:
 - a. The child is being held under warrant for another jurisdiction; ~~or.~~
 - b. The child is an escapee from a juvenile correctional or penal institution; ~~or.~~
 - c. There is probable cause to believe that the child has violated conditions of release imposed under section 232.44, subsection 5, paragraph "b", 232.52, or 232.54 and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; ~~or.~~
 - d. There is probable cause to believe the child has committed a delinquent act, and one of the following conditions is met:
 - (1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; ~~or.~~
 - (2) There is a serious risk that the child if released may commit an act which would inflict serious bodily harm on the child or on another; ~~or.~~

(3) There is a serious risk that the child if released may commit serious damage to the property of others.

Sec. 15. Section 232.22, subsection 1, Code Supplement 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. There is probable cause to believe that the child has committed a delinquent act involving possession with intent to deliver any of the following controlled substances:

(1) A mixture or substance containing cocaine base, also known as crack cocaine, and if the act was committed by an adult, it would be a violation of section 204.401, subsection 1, paragraph "a", subparagraph (3), paragraph "b", subparagraph (3), or paragraph "c", subparagraph (3).

(2) A mixture or substance containing cocaine, its salts, optical and geometric isomers, and salts of isomers, and if the act was committed by an adult, it would be a violation of section 204.401, subsection 1, paragraph "a", subparagraph (2), subparagraph subdivision (b), paragraph "b", subparagraph (2), subparagraph subdivision (b), or paragraph "c", subparagraph (2), subparagraph subdivision (b).

(3) A mixture or substance containing methamphetamine, its salts, isomers, and salts of isomers, and if the act was committed by an adult, it would be a violation of section 204.401, subsection 1, paragraph "c", subparagraph (6).

Sec. 16. Section 232.35, subsection 3, Code 1991, is amended to read as follows:

3. If the intake officer determines that a complaint is not legally sufficient for the filing of a petition or that the filing of a petition would not be in the best interests of the child and the community, the officer shall notify the complainant of the officer's determination and the reasons for such determination, and shall advise the complainant that the complainant may submit the complaint to the county attorney for review. Upon receiving a request for review, the county attorney shall consider the facts presented by the complainant, consult with the intake officer and make the final determination as to whether a petition should be filed. In the absence of a request by the complainant for a review of the intake officer's determination that a petition should not be filed, the officer's determination shall be final, and the intake officer shall inform the county attorney of this decision concerning complaints involving allegations of acts which, if committed by an adult, would constitute an aggravated misdemeanor or a felony.

Sec. 17. Section 232.45A, subsections 2 and 3, Code Supplement 1991, are amended to read as follows:

2. Once a child sixteen years of age or older has been waived to and convicted of a forcible felony or a felony violation of section 204.401 or chapter 707 by the district court, all criminal proceedings against the child for any forcible felony or a felony violation of section 204.401 or chapter 707 occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for a forcible felony or a felony violation of section 204.401 or chapter 707 who has previously been waived to and convicted of a forcible felony such an offense by the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.

**Sec. 18. Section 232.50, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. 5. *If a child is sixteen years of age or older, at the dispositional hearing, the court shall determine if jurisdiction of the child should be extended beyond the age of eighteen. Extended jurisdiction determinations shall be consistent with the rules and provisions of the youthful offender program as set forth in sections 234.50 through 234.53. Subject to the other limitations contained in this subsection, the court may extend jurisdiction for participation in the youthful offender program upon finding each of the following:*

a. The child is sixteen years of age or older and would qualify for placement at the state training school pursuant to section 232.52, subsection 2, paragraph "e".

b. The child falls within the other qualifications and limitations of the youthful offender program pursuant to section 234.53.

c. Participation in the youthful offender program is necessary for the rehabilitation of the child.

Upon finding each of the factors listed in paragraphs "a" through "c", the court shall provide equal access to the youthful offender program.*

*Sec. 19. Section 232.52, subsection 2, paragraph d, Code Supplement 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The department of human services for purposes of placement at a youthful offender program facility established pursuant to section 234.53. In addition to making each of the findings specified in section 232.50, subsection 5, prior to transferring custody for placement in a youthful offender program facility, the court must find that the delinquent meets the qualifications for placement in such a facility pursuant to section 234.53, subsection 6.*

Sec. 20. Section 232.52, subsection 2, paragraph e, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

An order transferring the guardianship of the child, subject to the continuing jurisdiction and custody of the court for the purposes of section 232.54, to the director of the department of human services for purposes of placement in the state training school or other facility, provided that the child is at least twelve years of age and the court finds the placement to be in the best interests of the child or necessary for the protection of the public, and that the child has been found to have committed an act which is a forcible felony, as defined in section 702.11, or a felony violation of section 204.401 or chapter 707, or the court finds any three of the following conditions exist:

Sec. 21. Section 232.52, subsection 6, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph "d", and the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

*Sec. 22. Section 232.52, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. If the court has determined that jurisdiction of the delinquent is to be extended beyond the age of eighteen pursuant to section 232.50, subsection 5, or section 232.54, subsection 7, for participation in the youthful offender program, any of the dispositions provided in this section may be ordered. All conditions and requirements affecting court orders, dispositions, or dispositional reviews in this section shall apply to an order or proceeding involving a person over whom jurisdiction has been extended for participation in the youthful offender program.*

*Sec. 23. Section 232.53, subsection 2, Code 1991, is amended to read as follows:

2. All Except as otherwise specifically provided in subsection 5, all dispositional orders entered prior to the child attaining the age of seventeen years and six months shall automatically terminate when the child becomes eighteen years of age. Dispositional orders entered subsequent to the child attaining the age of seventeen years and six months and prior to the child's eighteenth birthday shall automatically terminate one year after the date of disposition, except as otherwise provided in extending jurisdiction for participation in the youthful offender program pursuant to section 232.50, subsection 5, or section 232.54, subsection 7. In

*the case of an adult within the jurisdiction of the court under the provisions of section 232.8, subsection 1, the dispositional order shall automatically terminate one year after the last date upon which jurisdiction could attach.**

**Sec. 24. Section 232.53, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. 5. *Notwithstanding any other provision of this section or any other law to the contrary, a disposition over a person as to whom the court has extended its jurisdiction pursuant to section 232.50, subsection 5, or section 232.54, subsection 7, for participation in the youthful offender program, may remain in effect for a period of up to three years from the person's eighteenth birthday, unless the time period would be in excess of the maximum possible duration of the sentence which may be imposed on an adult for the commission of the act which the person has been found by the court to have committed.**

**Sec. 25. Section 232.54, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. 7. *Upon application of a juvenile court officer, the department, a person or agency to whom custody has been transferred, the child who is the subject of the order, or upon its own motion, the court may order the jurisdiction of the child to be extended beyond the person's eighteenth birthday in order for the person to participate in the youthful offender program, and may continue or modify the current dispositional order or enter a substituted dispositional order. The court shall not grant the application unless the court finds each of the criteria established in section 232.50, subsection 5. The continued or modified dispositional order or substituted dispositional order shall follow the qualifications, conditions, and limitations set forth in section 232.53, subsection 5, and sections 232.50 through 232.53. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court's own motion.**

**Sec. 26. Section 232.102, subsection 6, Code Supplement 1991, is amended to read as follows:*

6. The child shall not be placed in the state training school. Moreover, a child who is a child in need of assistance solely due to the fact that the child falls within the definition as set forth in section 232.2, subsection 6, paragraph "o", shall not be placed in the state training school or the Iowa juvenile home.*

Sec. 27. Section 232.116, subsection 1, paragraph d, subparagraph (2), Code 1991, is amended to read as follows:

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

Sec. 28. Section 232.116, subsection 1, paragraph e, subparagraph (3), Code 1991, is amended to read as follows:

(3) The custody of the child has been transferred removed from the physical custody of the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

Sec. 29. Section 232.116, subsection 1, paragraph g, subparagraph (3), Code 1991, is amended to read as follows:

(3) The custody of the child has been transferred removed from the physical custody of the child's parents for placement pursuant to section 232.102 for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

**Sec. 30. Section 232.141, subsection 1, Code 1991, is amended to read as follows:*

1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsection 2 and subsection 4 and, after giving the parent a reasonable opportunity to be heard, the court may order the parent

*Item veto; see message at end of the Act

to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments. If the county attorney assists in the collection of funds, the judicial department shall refund to the county attorney thirty-five percent of all funds collected on the state's behalf, to defray the expenses of collection.*

*Sec. 31. Section 232.141, subsection 5, Code 1991, is amended to read as follows:

5. If no other provision of law requires the county to reimburse costs incurred pursuant to subsection 4, the judicial department shall reimburse the costs as follows:

a. The judicial department shall prescribe by ~~administrative~~ rule all services eligible for reimbursement pursuant to subsection 4 and shall establish an allowable rate of reimbursement for each service.

b. The judicial department shall receive billings for services provided and, after determining allowable costs, shall reimburse providers at a rate which is not greater than allowed by ~~administrative~~ rule. Reimbursement paid to a provider by the judicial department shall be considered reimbursement in full unless a county voluntarily agrees to pay any difference between the reimbursement amount and the actual cost. When there are specific program regulations prohibiting supplementation those regulations shall be applied to providers requesting supplemental payments from a county. Billings for services not listed in ~~administrative~~ by rule shall not be paid. However, if the court ~~orders~~ may order a service not currently listed in ~~administrative~~ by rule, the department shall review the order and, if the court finds that reimbursement for the service of the judicial department is not in conflict with other law or ~~administrative~~ rule, and meets the criteria of subsection 4, in which case the judicial department shall reimburse the provider.*

Sec. 32. Section 232.141, subsection 8, if enacted by 1992 Iowa Acts, House File 2480,** section 8, is amended to read as follows:

8. This subsection applies only to placements in a juvenile shelter care home which is publicly owned, operated as a county or multicounty shelter care home, or organized under a chapter 28E agreement. If the department's reimbursement for the allowable costs of a child's shelter care placement exceeds the amount the department is authorized to pay in accordance with law and administrative rule, the unpaid costs may be recovered from the child's county of legal settlement. The unpaid costs are payable pursuant to filing of verified claims against the county of legal settlement. A detailed statement of the facts upon which a ~~claims~~ claim is based shall accompany the claim. Any dispute between counties arising from filings of claims pursuant to this subsection shall be settled in the manner provided to determine legal settlement in section 230.12.

*Sec. 33. Section 232.142, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If a child has been adjudicated delinquent and is remaining in a county detention home awaiting placement, if the child remains in the detention home seventy-two hours after the first dispositional hearing after adjudication, the department shall reimburse the county for any period from that time forward in which the child remains in the detention home, at the rate established by the detention home for holding juveniles from another county.*

*Item veto; see message at end of the Act

**Chapter 1229 herein

Sec. 34. NEW SECTION. 233.6 USING A JUVENILE TO COMMIT CERTAIN OFFENSES.

1. As used in this section, unless the context otherwise requires, "profit" means a monetary gain, monetary advantage, or monetary benefit.

2. It is unlawful for a person to act with, enter into a common scheme or design with, conspire with, recruit or use a person under the age of eighteen, through threats, monetary payment, or other means, to commit an indictable offense for the profit of the person acting with, entering into the common scheme or design with, conspiring with, recruiting or using the juvenile. A person who violates this section commits a class "D" felony.

*Sec. 35. NEW SECTION. 234.50 YOUTHFUL OFFENDER ADVISORY COMMITTEE ESTABLISHED — RULES.

1. The department of human services shall establish a youthful offender advisory committee. The advisory committee shall consist of nine members, with five voting members as follows:

a. A representative of the department of human services, appointed by the director.

b. A representative of the judicial department, appointed by the chief justice of the supreme court.

c. A representative of the division of criminal and juvenile justice planning of the department of human rights, appointed by the administrator of the division of criminal and juvenile justice planning.

d. A representative of the department of corrections, appointed by the director of the department of corrections.

e. A representative of youth service providers, appointed by the director of the department of human services from a list of names provided by youth service providers.

The nonvoting members of the advisory committee shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

2. Except as otherwise provided for the initial appointments, voting members shall be appointed for four-year terms and nonvoting members shall be appointed for two-year terms, commencing on May 1 in the year of appointment and expiring on April 30 in the year of expiration. A member shall serve no more than two consecutive terms, excluding the terms of the initial advisory committee.

3. Vacancies shall be filled in the same manner as original appointments. A vacancy shall be filled for the unexpired term.

4. The advisory committee shall elect a chairperson from among its own voting members.

5. Voting members of the advisory committee shall be paid their actual and necessary expenses incurred in the performance of their duties as provided in section 7E.6. Nonvoting members shall be paid their actual and necessary expenses from the funds appropriated under section 2.12.

6. The advisory committee shall meet at least every other month and may hold special meetings on the call of the chairperson or as requested by a quorum of the advisory committee. A majority of the voting members shall constitute a quorum.

7. The department of human services shall adopt rules as necessary for the operation of the advisory committee in the performance of its duties.*

*Sec. 36. NEW SECTION. 234.51 ADMINISTRATIVE ACTIVITIES.

The administrative functions and staff services of the youthful offender advisory committee shall be performed by the department of human services. The advisory committee shall be located in the department of human services offices.*

*Sec. 37. NEW SECTION. 234.52 DUTIES OF ADVISORY COMMITTEE.

The youthful offender advisory committee shall do all of the following:

1. Establish a youthful offender program as provided in this chapter.

*Item veto; see message at end of the Act

2. *Annually report the results of its activities to the governor and the general assembly.*
3. *Perform other duties as specified by law.**

***Sec. 38. NEW SECTION. 234.53 YOUTHFUL OFFENDER PROGRAM.**

1. *As used in this section, unless the context otherwise requires, "youthful offender" means a person who is sixteen years of age or older, who is subject to delinquency proceedings of the juvenile court pursuant to chapter 232, and who would qualify for placement at the state training school pursuant to section 232.52, subsection 2, paragraph "e".*

2. *The youthful offender advisory committee shall establish a youthful offender program. The youthful offender program shall be designed to meet the needs of eighty youthful offenders, with a limit of ten youthful offenders from each judicial district, on or before October 1, 1993.*

3. *The youthful offender program shall be designed to meet the needs of youthful offenders with intensive programming needs, including but not limited to youthful offenders having a dual diagnosis.*

4. *The advisory committee may establish youthful offender program facilities in more than one location, and may include public and private facilities. The department of human services shall assist the advisory committee by issuing requests for proposals and entering into contracts with other state agencies, political subdivisions, or others, including private individuals or entities, to establish youthful offender program facilities, as determined necessary by the advisory committee. In addition, if the advisory committee determines that a youthful offender program facility should be operated by the department of human services, and a facility is available to meet the needs of the youthful offender program as designed by the advisory committee, the department of human services shall operate a youthful offender program facility and include the youthful offender program facility in the department's budget proposals.*

5. *If the court orders a youth adjudicated as delinquent placed in a youthful offender program facility, the youth may be transferred originally to the diagnosis and evaluation center at the state training school at Eldora for the identification of appropriate treatment needs. Upon undergoing an initial diagnosis and evaluation screening at the state training school, the department of human services shall place the youthful offender in a youthful offender program facility or file a motion with the court to modify the dispositional order.*

6. a. *The court shall not order a person under the age of eighteen placed in a youthful offender program facility unless the child meets the qualification and limitations specified in this section, and the court finds each of the following:*

(1) *Placement in the youthful offender program facility is necessary for the rehabilitation of the child.*

(2) *Placement in the youthful offender program facility is in the best interests of the child and the community.*

b. *In making the determination as to whether a child should be placed in a youthful offender program facility pursuant to paragraph "a", the court shall examine the following factors:*

(1) *The nature of the delinquent act and the circumstances under which it was committed.*

(2) *The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.*

(3) *The programs, facilities, and personnel available in the youthful offender program facilities as opposed to other programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child.*

c. *The court shall not order a person eighteen years of age or older to a youthful offender program facility unless the person meets the qualifications and limitations specified in this section, other measures taken have been inadequate to rehabilitate the person, and the court determines that placement in the youthful offender program facility is necessary for the rehabilitation of the person.*

7. *The advisory committee shall establish specific guidelines for the youthful offender program facilities to utilize in working with the court to provide follow-up services, transitional services, supervision, and after care for persons released from the facilities.**

*Item veto; see message at end of the Act

Sec. 39. Section 237.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The department, in consultation with the judicial department, the division of criminal and juvenile justice planning of the department of human rights, residential treatment providers, the foster care provider association, and other parties which may be affected, shall review the licensing rules pertaining to residential treatment facilities, and examine whether the rules allow the facilities to accept and provide effective treatment to juveniles with serious problems who might not otherwise be placed in those facilities.

Sec. 40. Section 237.15, subsection 1, paragraph i, Code Supplement 1991, is amended to read as follows:

i. When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

**Sec. 41. Section 242.13, Code 1991, is amended to read as follows:
242.13 BINDING OUT OR DISCHARGE.*

*The binding out or the discharge of an inmate as reformed, or having arrived at the age of eighteen years, shall be a complete release from all penalties incurred by the conviction for the offense upon which the child was committed to the school, except as otherwise required for participation in the youthful offender program established in section 234.53.**

Sec. 42. Section 261.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Develop and implement, in cooperation with the department of human services and the judicial department, a program to assist juveniles who are sixteen years of age or older and who have a case permanency plan under chapter 232 or 237 or are otherwise under the jurisdiction of chapter 232 in applying for federal and state aid available for higher education.

**Sec. 43. Section 282.29, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *If a child who is not identified as requiring special education services is placed for treatment in a facility located outside of this state, the department of revenue and finance shall pay the child's educational costs for the period of time the child is placed at that facility. The payment for the costs shall be based upon the average per pupil tuition and transportation costs for the school district in which the facility is located. The amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 during the remainder of the fiscal year to all school districts in the state.**

Sec. 44. Section 321.178, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

An approved driver education course as programmed by the department of education shall consist of at least thirty clock hours of classroom instruction, and six or more clock hours of laboratory instruction of which at least three clock hours shall consist of street or highway driving. An approved course shall include a minimum of ~~two~~ four hours of classroom instruction concerning substance abuse as part of its curriculum. After the student has completed three clock hours of street or highway driving and has demonstrated to the instructor an ability to properly operate a motor vehicle and upon written request of a parent or guardian, the instructor may waive the remaining required laboratory instruction.

Sec. 45. **NEW SECTION.** 321J.23 LEGISLATIVE FINDINGS.

The general assembly finds and declares as follows:

1. Drivers often do not realize the consequences of drinking alcohol or using other drugs, and driving a motor vehicle.

2. Prompt intervention is needed to protect society, including drivers, from death or serious long-term injury.

3. The conviction of a driver for operating while intoxicated identifies that person as a risk to the health and safety of others, as well as to the intoxicated driver.

4. Close observation of the effects on others of alcohol and drug use by an intoxicated driver convicted of operating while intoxicated may have a marked effect on recidivism and should therefore be encouraged by the courts.

5. The reality education substance abuse prevention program provides guidelines for the operation of an intensive program to discourage recidivism.

Sec. 46. NEW SECTION. 321J.24 COURT-ORDERED VISITATION FOR OFFENDERS – IMMUNITY FROM LIABILITY.

1. As used in this section, unless the context otherwise requires:

a. "Appropriate victim" means a victim whose condition demonstrates the results of a motor vehicle accident involving intoxicated drivers without being excessively traumatic to the participant, as determined by the tour supervisor.

b. "Participant" means a person who is sixteen years of age or older but under the age of twenty-one, and who is ordered by the court to participate in the reality education substance abuse prevention program.

c. "Program" means the reality education substance abuse prevention program.

d. "Program coordinator" means a person appointed by the court to coordinate the person's participation in the program.

e. "Tour supervisor" means a person selected by a participant's program coordinator to supervise a tour.

2. A reality education substance abuse prevention program is established in those judicial districts where the chief judge of the judicial district authorizes participation in the program. Upon a conviction or adjudication for a violation of section 321J.2, or the entry of a deferred judgment concerning a violation of section 321J.2, the court or juvenile court, with the consent of the defendant or delinquent child, may order a defendant who is sixteen years of age or older but under the age of twenty-one or delinquent child who is sixteen years of age or older to participate in the reality education substance abuse prevention program as a term and condition of probation or disposition in addition to any other term or condition of probation or disposition required or authorized by law. The court or juvenile court shall require the defendant or delinquent child to abstain from consuming any controlled substance, alcoholic liquor, wine, or beer before reaching age twenty-one while participating in the program.

3. The court or juvenile court shall consult with the defendant or delinquent child and the defendant's or delinquent child's attorney, if any, and may consult with any other person, including but not limited to the defendant's or delinquent child's parents or other family members, to determine if the defendant or delinquent child is suitable for participation in the program, if the program will be educational and meaningful to the defendant or delinquent child, and if any physical, emotional, mental, or other reasons exist which indicate that the program would be inappropriate or would cause any injury to the defendant or delinquent child.

4. The court or juvenile court may appoint a program coordinator, to coordinate all tours and select appropriate tour supervisors for each tour. The program coordinator shall monitor compliance by contacting each tour supervisor following the completion of a tour.

5. The court or juvenile court may include a requirement for a supervised educational tour by the defendant or delinquent child to any or all of the following:

a. A hospital or other emergency medical care facility which regularly receives victims of motor vehicle accidents, to observe treatment of appropriate victims of motor vehicle accidents involving intoxicated drivers, under the supervision of a registered nurse, physician, paramedic, or emergency medical technician.

b. A facility for the treatment of chemical substance abuse as defined in section 125.2, under the supervision of appropriately licensed medical personnel.

c. If approved by the state or county medical examiner, a morgue or a similar facility to receive appropriate educational material and instruction concerning damage caused by the consumption of alcohol or other drugs, under the supervision of the county medical examiner or deputy medical examiner.

However, the court or juvenile court shall not order the defendant or delinquent child to participate in a supervised education tour of a hospital or other facility specified in this subsection, unless the hospital or facility agrees to participate in the program.

6. Prior to a tour, the program coordinator shall explain and discuss the experiences which may be encountered during the tour to the participant. If the program coordinator determines at any time before or during a tour that the tour may be traumatic or otherwise inappropriate for the participant, the program coordinator shall terminate the tour without prejudice to the participant.

7. The court or juvenile court may order a personal conference after the tours with the participant, the participant's attorney, if any, and any other persons if available and deemed necessary by the court or juvenile court, to discuss the experiences of the participant in the program and how those experiences may impact the participant's conduct. The court or juvenile court may order the participant to write a report or letter concerning the participant's experiences in the program.

8. Tour supervisors and facilities toured during the program are not liable for any civil damages resulting from injury to the participant, or civil damages caused by the participant during or from any activities related to a tour, except for willful or grossly negligent acts intended to, or reasonably expected to result in, such injury or damage.

9. The chief judge of the judicial district shall determine fees to be paid by participants in the program. The judicial department shall use the fees to pay all costs associated with the program. The court shall either require the participant to pay the fee in order to participate in the program, or may waive the fee or collect a lesser amount upon a showing of cause.

Sec. 47. Section 601K.133, subsection 1, Code 1991, is amended to read as follows:

1. Identify issues and analyze the operation and impact of present criminal and juvenile justice policy and make recommendations for policy changes, including recommendations pertaining to efforts to curtail criminal gang activity.

Sec. 48. Section 601K.135, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Beginning in 1992, the division shall include in the plans, updates, and reports required by this section an identification and evaluation of existing juvenile treatment programs based upon quantifiable goals established by the division, utilizing its existing computer capacity and access.

Sec. 49. NEW SECTION. 601K.138 MULTIAGENCY DATA BASE CONCERNING JUVENILES.

1. The division shall coordinate the development of a multiagency data base to track the progress of juveniles through various state and local agencies and programs. The division shall develop a plan which utilizes existing data bases, including the Iowa court information system, the federally mandated national adoption and foster care information system, and the other state and local data bases pertaining to juveniles, to the extent possible.

2. The department of human services, department of corrections, judicial department, department of public safety, department of education, local school districts, and other state agencies and political subdivisions shall cooperate with the division in the development of the plan.

3. The data base shall be designed to track the progress of juveniles in various programs, evaluate the experiences of juveniles, and evaluate the success of the services provided.

4. The division shall develop the plan within the context of existing federal privacy and confidentiality requirements. The plan shall build upon existing resources and facilities to the extent possible.

5. The plan shall include proposed guidelines for the sharing of information by case management teams, consisting of designated representatives of various state and local agencies and political subdivisions to coordinate the delivery of services to juveniles under the jurisdiction of the juvenile court. The guidelines shall be developed to structure and improve the information-sharing procedures of case management teams established pursuant to any applicable state or federal law or approved by the juvenile court with respect to a juvenile who is the recipient of the case management team services. The plan shall also contain proposals for changes in state laws or rules to facilitate the exchange of information among members of case management teams.

6. If the division has insufficient funds and resources to implement this section, the division shall determine what, if any, portion of this section may be implemented, and the remainder of this section shall not apply.

7. The division shall submit a report on the plan required by this section to the general assembly on or before January 15, 1994.

**Sec. 50. Section 602.1301, subsection 1, Code Supplement 1991, is amended to read as follows:*

*1. The supreme court shall prepare an annual operating budget for the department, which shall include the department's expenses pursuant to section 232.141, and shall submit a budget request to the general assembly for the fiscal period for which the general assembly is appropriating funds.**

**Sec. 51. Section 602.1301, subsection 2, paragraph a, Code Supplement 1991, is amended by adding the following new subparagraph:*

*NEW SUBPARAGRAPH. (10) Expenses for court-ordered services provided to juveniles pursuant to section 232.141.**

**Sec. 52. Section 602.1301, subsection 2, paragraph b, Code Supplement 1991, is amended to read as follows:*

*b. Before December 1, the supreme court shall submit to the director of management an estimate of the total expenditure requirements of the judicial department, including expenditures pursuant to section 232.141. The director of management shall submit this estimate received from the supreme court to the governor for inclusion without change in the governor's proposed budget for the succeeding fiscal year. The estimate shall also be submitted to the chairpersons of the committees on appropriations.**

Sec. 53. Section 602.6405, subsection 1, Code Supplement 1991, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. Magistrates have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. Magistrates have jurisdiction over violations of ~~section 123.47 involving persons eighteen years of age, and~~ section 123.49, subsection 2, paragraph "h". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

**Sec. 54. NEW SECTION. 602.7301 JUVENILE COURT JUDGES COMMISSION ESTABLISHED.*

1. A juvenile court judges commission is established within the judicial department.

2. The commission shall consist of five justices, district judges, and district associate judges and four juvenile court referees appointed by the governor from a list submitted by the chief justice of the supreme court. Of the original commission members, three shall be appointed

for a term of three years, three for a term of two years, and three for a term of one year, as specified by the governor. Thereafter, members shall serve for a term of three years. Vacancies on the commission shall be filled for the unexpired term in the same manner as the original appointment. Annually, the commission shall select from its members a chairperson and a secretary. Five members shall constitute a quorum.

3. Members of the commission shall serve without compensation, but shall receive actual and necessary expenses, including travel, at the state rate.

4. The commission shall meet on the call of the chairperson or a majority of the members. The commission shall meet at least on a quarterly basis.*

*Sec. 55. NEW SECTION. 602.7302 DUTIES OF COMMISSION.

The juvenile court judges commission shall do all of the following:

1. Advise juvenile court judges and referees in all matters pertaining to the proper care and maintenance of delinquent children.

2. Examine the administrative methods and procedures used in juvenile courts throughout the state, establish proposed standards, and make recommendations to the supreme court.

3. Examine the personnel practices and employment standards used concerning juvenile courts and probation services, and make recommendations to the supreme court.

4. Collect, compile, and publish such statistical and other data as may be needed to accomplish reasonable and efficient administration of the juvenile courts, in cooperation with the division of criminal and juvenile justice planning of the department of human rights.*

Sec. 56. Section 657.2, subsection 6, Code 1991, is amended to read as follows:

6. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 204.101, subsection 6, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

Sec. 57. Section 713.3, Code 1991, is amended to read as follows:

713.3 BURGLARY IN THE FIRST DEGREE.

A person commits burglary in the first degree if, while perpetrating a burglary in or upon an occupied structure in which persons are present, the person has in the person's possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts bodily injury on any person. Burglary in the first degree is a class "B" felony.

Sec. 58. Section 713.4, Code 1991, is amended to read as follows:

713.4 ATTEMPTED BURGLARY IN THE FIRST DEGREE.

A person commits attempted burglary in the first degree if, while perpetrating an attempted burglary in or upon an occupied structure in which persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts ~~physical~~ bodily injury on any person. Attempted burglary in the first degree is a class "C" felony.

Sec. 59. Section 713.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

713.5 BURGLARY IN THE SECOND DEGREE.

A person commits burglary in the second degree in either of the following circumstances:

1. While perpetrating a burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

2. While perpetrating a burglary in or upon an occupied structure in which persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

Burglary in the second degree is a class "C" felony.

*Item veto; see message at end of the Act

Sec. 60. Section 713.6, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

713.6 ATTEMPTED BURGLARY IN THE SECOND DEGREE.

A person commits attempted burglary in the second degree in either of the following circumstances:

1. While perpetrating an attempted burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

2. While perpetrating an attempted burglary in or upon an occupied structure in which persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

Attempted burglary in the second degree is a class "D" felony.

Sec. 61. NEW SECTION. 713.6A BURGLARY IN THE THIRD DEGREE.

All burglary which is not burglary in the first degree or burglary in the second degree is burglary in the third degree. Burglary in the third degree is a class "D" felony.

Sec. 62. NEW SECTION. 713.6B ATTEMPTED BURGLARY IN THE THIRD DEGREE.

All attempted burglary which is not attempted burglary in the first degree or attempted burglary in the second degree is attempted burglary in the third degree. Attempted burglary in the third degree is an aggravated misdemeanor.

Sec. 63. Section 713.7, Code 1991, is amended to read as follows:

713.7 POSSESSION OF BURGLAR'S TOOLS.

Any person who possesses any key, tool, instrument, device or any explosive, with the intent to use it in the perpetration of a burglary, ~~shall be guilty of possessing burglar's tools. Possessing burglar's tools is a class "C" felony commits an aggravated misdemeanor.~~

Sec. 64. Section 805.8, subsection 10, Code 1991, is amended to read as follows:

10. ALCOHOLIC BEVERAGE VIOLATIONS. For violations of section 123.47A, which constitute first offenses as provided in that section, the scheduled fine is fifteen dollars.

Sec. 65. Section 910A.14, subsections 1 and 2, Code 1991, are amended to read as follows:

1. A court may, upon its own motion or upon motion of any party, order that the testimony of a ~~child~~ minor, as defined in section ~~702.5~~ 599.1, be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court. Only the judge, parties, counsel, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the ~~child~~ minor may be present in the room with the ~~child~~ minor during the ~~child's~~ minor's testimony. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a ~~child~~ minor, as defined in section ~~702.5~~ 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the ~~child~~ minor is unavailable as provided in Iowa rules of evidence 804(a), order the videotaping of the ~~child's~~ minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 12(2)(b), and shall be admissible as evidence in the trial of the cause. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

Sec. 66. Section 910A.15, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness's

interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem shall be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. If a guardian ad litem has previously been appointed for the child in a proceeding under chapter 232 or a proceeding in which the juvenile court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem under this section. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the guardian ad litem shall file reports to the court as required by the court. If a prosecuting witness is fourteen, fifteen, sixteen, or seventeen years of age, and would be entitled to the appointment of a guardian ad litem if the prosecuting witness were a child, the court may appoint a guardian ad litem if the requirements for guardian ad litem in this section are met, and the guardian ad litem agrees to participate without compensation.

**Sec. 67. INITIAL YOUTHFUL OFFENDER ADVISORY COMMITTEE — IMPLEMENTATION — EFFECTIVE DATE.*

1. *In order to effectuate the purposes of this Act and to implement the provisions of this Act pertaining to the youthful offender advisory committee by July 1, 1992, the department of human services shall coordinate the establishment of the initial youthful offender advisory committee. The initial youthful offender advisory committee shall be appointed in the manner specified in the section of this Act establishing a new section 234.50, subsection 1, and the appointing entities shall cooperate with the department of human services to establish the initial youthful offender advisory committee by July 1, 1992.*

2. *The terms of the initial members of the advisory committee shall commence on July 1, 1992, and expire as follows:*

- a. *For the representative of the department of human services, on April 30, 1993.*
- b. *For the representative of the judicial department, on April 30, 1994.*
- c. *For the representative of the division of criminal and juvenile justice planning, on April 30, 1995.*
- d. *For the representative of the department of corrections and the representative of youth service providers, on April 30, 1996.*
- e. *For the nonvoting legislative members, on April 30, 1993.*

3. *The department of human services shall provide administrative services as are necessary to implement this section. The department shall coordinate the first meetings of the initial advisory committee.*

4. *This section, being deemed of immediate importance, shall take effect upon enactment.**

Sec. 68. JUVENILE JUSTICE STUDY. The legislative council is requested to negotiate a contract with the Annie E. Casey Foundation to conduct a comprehensive study concerning the delivery of services to juveniles involved in delinquency proceedings. The study shall examine the types of placements for juveniles adjudicated delinquent, taking into consideration the effectiveness of the placements in meeting the needs of juveniles and the cost-effectiveness of the programs. The study shall be completed and a report containing recommendations shall be submitted to the general assembly no later than March 1, 1993.

Sec. 69. REPEAL. 1992 Iowa Acts, Senate File 2355, section 16, if enacted by the 1992 Session of the Seventy-fourth General Assembly, is repealed.

**Sec. 70. IMPLEMENTATION AND EFFECTIVE DATE CONCERNING YOUTHFUL OFFENDER PROVISIONS.*

1. *The sections of this Act which amend section 232.8 by adding a new subsection 7, and amend sections 232.50, 232.52, 232.53, and 232.54, by providing procedures for the juvenile court to order persons to participate in the youthful offender program, take effect July 1, 1993.*

*Item veto; see message at end of the Act

2. Although the provisions cited in subsection 1 take effect July 1, 1993, the court shall not utilize these sections unless the youthful offender program is established as provided in section 234.53, subsection 2.*

Sec. 71. EFFECTIVE DATE. The second sentence of subsection 1 of section 1 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 1 in its entirety; Sections 3, 4, 5, and 6 in their entirety; Section 11 in its entirety; Section 13 in its entirety; Sections 18 and 19 in their entirety; Sections 22, 23, 24, 25, and 26 in their entirety; Sections 30 and 31 in their entirety; Section 33 in its entirety; Sections 35, 36, 37, and 38 in their entirety; Section 41 in its entirety; Section 43 in its entirety; Sections 50, 51, and 52 in their entirety; Sections 54 and 55 in their entirety; Section 67 in its entirety; and Sections 69, 70, and 71 in their entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Madam Secretary:

I hereby transmit House File 2452, an Act relating to juvenile and criminal justice, establishing a juvenile court judges commission, making appropriations, establishing and increasing penalties, granting the juvenile court jurisdiction over chronic runaways, expanding provisions for automatic waiver to adult court, establishing a youthful offender program, and altering provisions concerning the commission of burglary, providing implementation and effective date provisions, and providing for related matters.

House File 2452 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 1, 31, 50, 51, 52, 69 and 71, in their entirety. This language moves Court Ordered Services for Juveniles from the Department of Human Services to the Judicial Department. Because the Judicial Department does not have sufficient staff to provide these services, I am unable to approve these items.

I am unable to approve the items designated as Sections 3 through 6, in their entirety. These sections establish a series of new programs to address aspects of runaways and juvenile justice. Given the financial condition of the State and because the programs established are new, I am unable to approve these items.

I am unable to approve the items designated as Section 11 and Section 26, in their entirety. These sections would expand the definition of Child in Need of Assistance to include a child who is voluntarily absent from the child's home or placement. Because funds have not been appropriated for this purpose, these items cannot be approved.

I am unable to approve the items designated as Sections 13, 18, 19, 22 through 25, 35 through 38, 41, 67 and 70, in their entirety. These sections would establish a youthful offender program. It is estimated that the cost could be as much as \$4,000,000 annually. Because moneys have not been appropriated for this program, I am unable to approve this item.

I am unable to approve the item designated as Section 30, in its entirety. This section provides that county attorneys would receive 35 percent of funds collected on the state's behalf from parents for payment of court ordered services. A county attorney should receive a refund for the collection of delinquent payments only and no such restriction is provided in this section.

*Item veto; see message at end of the Act

I am unable to approve the item designated as Section 33, in its entirety. This section provides that the state pay for the costs of detaining juveniles for more than 72 hours. Because no funds have been appropriated to pay for the cost of these services, which are estimated to be nearly \$900,000, this item cannot be approved.

I am unable to approve the item designated as Section 43, in its entirety. This section provides that the educational costs of foster care children placed in out-of-state group homes be paid from moneys appropriated to the School Foundation Program. Because funds are currently available from moneys appropriated to Court Ordered Services for Juveniles, I am unable to approve this item.

I am unable to approve the items designated as Sections 54 and 55, in their entirety. These sections provide for a new Juvenile Court Judges Commission. Since existing groups are available to provide these services, I am unable to approve these items.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2452 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, *Governor*

CHAPTER 1232

DEPARTMENTAL SUPPLEMENTAL APPROPRIATIONS AND REDUCTIONS AND OTHER PROVISIONS

S.F. 2116

AN ACT relating to the state budget by supplementing certain appropriations and reducing certain appropriations made for the fiscal year beginning July 1, 1991, making changes in the state aid to school corporations, imposing the sales, services, and use tax on solid waste collection and disposal services, consulting services, and additional services, and changing the registration fees for multipurpose vehicles, and providing effective and applicability dates.

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

DIVISION I ADDITIONAL REDUCTIONS

Section 100. ADDITIONAL REDUCTIONS OF FISCAL YEAR 1991-1992 APPROPRIATIONS.

1. After applying the reduction pursuant to executive order number 42, moneys appropriated from the general fund of the state for the fiscal year beginning July 1, 1991, by the Seventy-fourth General Assembly, 1991 Session, and standing limited and unlimited appropriations from the general fund of the state for the fiscal year beginning July 1, 1991, are reduced by \$2,600,000. However, moneys appropriated from the general fund of the state for the fiscal year beginning July 1, 1991, shall not be reduced if the appropriation is any of the following:

a. Made to the department of human services for programs as delineated in subsection 4, to the department of corrections as specified in subsection 5, to the office of the state public defender as specified in subsection 6, for property tax replacement or reimbursement as specified in subsection 7, and to school corporations as specified in subsection 8.

b. Made pursuant to section 2.12.

c. Made to the judicial branch of the government.

2. The \$2,600,000 reduction in appropriations in subsection 1 shall be carried out uniformly and proportionately in the manner specified in section 8.31, except as provided in subsections

*Item veto; see message at end of the Act