

232.22 Placement in detention.

1. 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.

b. The child is an escapee from a juvenile correctional or penal institution.

c. There is probable cause to believe that the child has violated conditions of release imposed under section 232.44, subsection 5, paragraph "b", or section 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.

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.

(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.

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

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 124.401, 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 124.401, 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, or salts of isomers, or analogs of methamphetamine, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 1.

f. A dispositional order has been entered under section 232.52 placing the child in secure custody in a facility defined in subsection 3, paragraph "a" or "b".

g. There is probable cause to believe that the child has committed a delinquent act which would be domestic abuse under chapter 236 or a domestic abuse assault under section 708.2A if committed by an adult.

2. If deemed appropriate by the court, an order for placement of a child in detention may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may assist the department in obtaining federal funding for the child's placement.

3. Except as provided in subsection 7, a child may be placed in detention as provided in this section in one of

the following facilities only:

a. A juvenile detention home.

b. Any other suitable place designated by the court other than a facility under paragraph "c".

c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act which if committed by an adult would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following apply:

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

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

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

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

However, if the child is to be detained for a violation of section 123.46 or section 321J.2, placement in a facility pursuant to this paragraph shall be made only after an attempt has been made to notify the parents or legal guardians of the child and request that the parents or legal guardians take custody of the child. If the parents or legal guardians cannot be contacted, or refuse to take custody of the child, an attempt shall be made to place the child in another facility, including but not limited to a local hospital or shelter care facility. Also, a child detained for a violation of section 123.46 or section 321J.2 pursuant to this paragraph shall only be detained in a facility with adequate staff to provide continuous visual supervision of the child.

d. A place used for the detention of children prior to an adjudicatory hearing may also be used for the detention of a child awaiting disposition to a placement under section 232.52, subsection 2, paragraph "e" while the adjudicated child is awaiting transfer to the disposition placement.

4. A child shall not be held in a facility under subsection 3, paragraph "a" or "b" for a period in excess of twenty-four hours without an oral or written court order authorizing the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

5. A child shall not be detained in a facility under subsection 3, paragraph "c" for a period of time in excess of six hours without the oral or written order of a judge or a magistrate authorizing the detention. A judge or magistrate may authorize detention in a facility under subsection 3, paragraph "c" for a period of time in excess of six hours but less than twenty-four hours, excluding weekends and legal holidays, but only if all of the following occur or exist:

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

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

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

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

The restrictions contained in this subsection relating to the detention of a child in a facility under subsection 3, paragraph "c" do not apply if the court has waived its jurisdiction over the child for the alleged commission of a felony offense pursuant to section 232.45.

6. An adult within the jurisdiction of the court under section 232.8, subsection 1, who has been placed in detention, is not bailable under chapter 811. If such an adult is detained in a room in a facility intended or used for the detention of adults, the adult shall be confined in a room entirely separated from adults not within the jurisdiction of the court under section 232.8, subsection 1.

7. If the court has waived its jurisdiction over the child for the alleged commission of a forcible felony offense pursuant to section 232.45 or 232.45A, and there is a serious risk that the child may commit an act which would inflict serious bodily harm on another person, the child may be held in the county jail, notwithstanding section 356.3. However, wherever possible the child shall be held in sight and sound separation from adult offenders. A child held in the county jail under this subsection shall have all the rights of adult postarrest or pretrial detainees.

8. Notwithstanding any other provision of the Code to the contrary, a child shall not be placed in detention for a violation of section 123.47, or for failure to comply with a dispositional order which provides for performance of community service for a violation of section 123.47.

[S13, § 254-a24; SS15, § 254-a16; C24, 27, 31, 35, 39, § **3633**; C46, 50, 54, 58, 62, § 232.17; C66, 71, 73, 75, 77, § 232.17232.19; C79, 81, § 232.22; 82 Acts, ch 1209, § 4, 5]

86 Acts, ch 1186, § 3; 87 Acts, ch 149, §24; 88 Acts, ch 1167, § 2, 3; 91 Acts, ch 232, §2, 3; 92 Acts, ch 1231, § 14, 15; 95 Acts, ch 180, § 3; 95 Acts, ch 191, § 9; 96 Acts, ch 1164, § 7; 97 Acts, ch 126, §14; 2001 Acts, ch 135, §6