CHAPTER 232

JUVENILE JUSTICE

Referred to in §13B.9, 85.59, 123.47, 135.108, 135H.6, 135L.3, 232B.3, 232B.6, 233.2, 233A.5, 233B.4, 235A.13, 236.11, 237.20, 238.32, 252D.1, 252D.16, 252D.16A, 252H.2, 252I.2, 252J.1, 261.2, 261.6, 299.8, 321.180B, 321.184, 321.482, 321G.14, 321I.15, 331.427, 331.756(48), 356.3, 462A.13, 483A.24, 598.21C, 602.6110, 602.7101, 602.7202, 602.8102(42), 664A.1, 664A.2, 664A.5, 664A.7, 709.12, 709A.1, 814.11, 815.9, 915.25, 915.37

[P]
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DIVISION I

CONSTRUCTION AND DEFINITIONS

232.1 Rules of construction.

This chapter shall be liberally construed to the end that each child under the jurisdiction of the court shall receive, preferably in the child's own home, the care, guidance and control that will best serve the child's welfare and the best interest of the state. When a child is removed from the control of the child's parents, the court shall secure for the child care as nearly as possible equivalent to that which should have been given by the parents.

[S13, §254-a14; C24, 27, 31, 35, 39, §**3617;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §232.1]

232.1A Foster care placement — annual goal.

The annual state goal for children placed in foster care that is funded under the federal Social Security Act, Tit. IV-E, is that not more than fifteen percent of the children will be in a foster care placement for a period of more than twenty-four months.

2005 Acts, ch 175, §101; 2010 Acts, ch 1061, §180

232.2 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Abandonment of a child"* means the relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

2. *"Adjudicatory hearing"* means a hearing to determine if the allegations of a petition are true.

3. *"Adult"* means a person other than a child.

4. *"Case permanency plan"* means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. § 622(b)(10), 671(a)(16), and 675(1),(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

b. The type and appropriateness of the placement and services to be provided to the child.

c. The care and services that will be provided to the child, biological parents, and foster parents.

d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

e. The most recent information available regarding the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider. If the child remains in foster care until the age of majority, the child is entitled to receive prior to discharge the most recent information available regarding the child's health and educational records.

f. (1) When a child is sixteen years of age or older, a written transition 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 adulthood. The transition plan and needs assessment shall be developed with a focus on the services, other support, and actions necessary to facilitate the child's successful entry into adulthood. The transition plan shall be personalized at the direction of the child and shall be developed with the child present, honoring the goals and

concerns of the child, and shall address the following areas of need when the child becomes an adult, including but not limited to all of the following:

(a) Education.

(b) Employment services and other workforce support.

(c) Health and health care coverage.

(d) Housing.

(e) Relationships, including local opportunities to have a mentor.

(f) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall provide for the child's application for adult services.

(2) The transition plan shall be considered a working document and shall be reviewed and updated for each permanency hearing by the court or other formal case permanency plan review. The transition plan shall also be reviewed and updated during the ninety calendar-day period preceding the child's eighteenth birthday and during the ninety calendar-day period immediately preceding the date the child is expected to exit foster care, if the child remains in foster care after the child's eighteenth birthday. The transition plan may be reviewed and updated more frequently.

(3) The transition plan shall be developed and reviewed by the department in collaboration with a child-centered transition team. The transition team shall be comprised of the child's caseworker and persons selected by the child, persons who have knowledge of services available to the child, and any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time. If the child is reasonably likely to need or be eligible for adult services, the transition team membership shall include representatives from the adult services system. The adult services system representatives may include but are not limited to the administrator of county general relief under chapter 251 or 252 or of the central point of coordination process implemented under section 331.440. The membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

(4) The final transition plan shall specifically identify how the need for housing will be addressed.

(5) If the child is interested in pursuing higher education, the transition 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.

(6) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall be reviewed and approved by the transition committee for the area in which the child resides, in accordance with section 235.7, before the child reaches age seventeen and one-half. The transition committee's review and approval shall be indicated in the case permanency plan.

(7) Provision for the department or a designee of the department on or before the date the child reaches age eighteen to provide to the child a certified copy of the child's birth certificate and to facilitate securing a federal social security card. The fee for the certified copy that is otherwise chargeable under section 144.13A, 144.46, or 331.605 shall be waived by the state or county registrar.

g. The actions expected of the parent, guardian, or custodian in order for the department or agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the department or agency to end its involvement with the child and the child's family.

h. If reasonable efforts to place a child for adoption or with a guardian are made concurrently with reasonable efforts as defined in section 232.102, the concurrent goals and timelines may be identified. Concurrent case permanency plan goals for reunification, and for adoption or for other permanent out-of-home placement of a child shall not be considered inconsistent in that the goals reflect divergent possible outcomes for a child in an out-of-home placement.

i. A provision that a designee of the department or other person responsible for placement of a child out-of-state shall visit the child at least once every six months.

j. If it has been determined that the child cannot return to the child's home, documentation of the steps taken to make and finalize an adoption or other permanent placement.

k. If it is part of the child's records or it is otherwise known that the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, that information shall be addressed in the plan and shall be provided to the child's parent, guardian, or foster parent or other person with custody of the child. The information shall be provided whether the child's placement is voluntary or made pursuant to a court determination. The information shall be provided at the time it is learned by the department or agency developing the plan and, if possible, at the time of the child's placement. The information shall only be withheld if ordered by the court or it is determined by the department or agency developing the plan that providing the information would be detrimental to the child or to the family with whom the child is living. In determining whether providing the information would be detrimental, the court, department, or agency shall consider any history of abuse within the child's family or toward the child.

l. The provisions involving sibling visitation or interaction required under section 232.108.

m. Documentation of the educational stability of the child while in foster care. The documentation shall include but is not limited to all of the following:

(1) Evidence there was an evaluation of the appropriateness of the child's educational setting while in placement and of the setting's proximity to the educational setting in which the child was enrolled at the time of placement.

(2) An assurance either that the department coordinated with appropriate local educational agencies to identify how the child could remain in the educational setting in which the child was enrolled at the time of placement or, if it was determined it was not in the child's best interest to remain in that setting, that the affected educational agencies would immediately and appropriately enroll the child in another educational setting during the child's placement and ensure that the child's educational records were provided for use in the new educational setting. For the purposes of this subparagraph, *"local educational agencies"* means the same as defined in the federal Elementary and Secondary Education Act of 1965, § 9101, as codified in 20 U.S.C. § 7801(26).

5. *"Child"* means a person under eighteen years of age.

6. *"Child in need of assistance"* means an unmarried child:

a. Whose parent, guardian, or other custodian has abandoned or deserted the child.

b. Whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

c. Who has suffered or is imminently likely to suffer harmful effects as a result of any of the following:

(1) Mental injury caused by the acts of the child's parent, guardian, or custodian.

(2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

(3) The child's parent, guardian, or custodian, or person responsible for the care of the child, as defined in section 232.68, has knowingly disseminated or exhibited obscene material as defined in section 728.1 to the child.

d. Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian, or other member of the household in which the child resides.

e. Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling to provide such treatment.

g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in

supplying the child with adequate food, clothing, or shelter and refuses other means made available to provide such essentials.

h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, custodian, or other member of the household in which the child resides.

i. Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political, or artistic value.

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

k. Whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody.

l. Who for good cause desires to have the child's parents relieved of the child's care and custody.

m. Who is in need of treatment to cure or alleviate chemical dependency and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

o. In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

p. Whose parent, guardian, or custodian does any of the following: unlawfully manufactures a dangerous substance in the presence of a child, knowingly allows such manufacture by another person in the presence of a child, or in the presence of a child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(1) For the purposes of this paragraph, *"in the presence of a child"* means the physical presence of a child during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession occurred under other circumstances in which a reasonably prudent person would know that the manufacture or possession may be seen, smelled, or heard by a child.

(2) For the purposes of this paragraph, *"dangerous substance"* means any of the following:

(a) Amphetamine, its salts, isomers, or salts of its isomers.

(b) Methamphetamine, its salts, isomers, or salts of its isomers.

(c) A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:

(i) The process of manufacturing an illegal or controlled substance.

(ii) As a precursor in the manufacturing of an illegal or controlled substance.

(iii) As an intermediary in the manufacturing of an illegal or controlled substance.

q. Who is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

6A. *"Chronic runaway"* means a child who is reported to law enforcement as a runaway more than once in any thirty-day period or three or more times in any year.

7. *"Complaint"* means an oral or written report which is made to the juvenile court by any person and alleges that a child is within the jurisdiction of the court.

8. *"Court"* means the juvenile court established under section 602.7101.

9. *"Court appointed special advocate"* means a person duly certified by the child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

10. *"Criminal or juvenile justice agency"* means any agency which has as its primary responsibility the enforcement of the state's criminal laws or of local ordinances made pursuant to state law.

11. *a.* "*Custodian*" means a stepparent or a relative within the fourth degree of consanguinity to a child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to division IV, or a person appointed by a court or juvenile court having jurisdiction over a child.

b. The rights and duties of a custodian with respect to a child are as follows:

(1) To maintain or transfer to another the physical possession of that child.

(2) To protect, train, and discipline that child.

(3) To provide food, clothing, housing, and medical care for that child.

(4) To consent to emergency medical care, including surgery.

(5) To sign a release of medical information to a health professional.

c. All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

12. *"Delinquent act"* means:

a. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult except any offense which by law is exempted from the jurisdiction of this chapter.

b. The violation of a federal law or a law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court.

c. The violation of section 123.47 which is committed by a child.

13. *"Department"* means the department of human services and includes the local, county, and service area officers of the department.

14. *"Desertion"* means the relinquishment or surrender for a period in excess of six months of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of desertion need not include the intention to desert, but is evidenced by the lack of attempted contact with the child or by only incidental contact with the child.

15. "*Detention*" means the temporary care of a child in a physically restricting facility designed to ensure the continued custody of the child at any point between the child's initial contact with the juvenile authorities and the final disposition of the child's case.

16. "*Detention hearing*" means a hearing at which the court determines whether it is necessary to place or retain a child in detention.

17. *"Director"* means the director of the department of human services or that person's designee.

18. *"Dismissal of complaint"* means the termination of all proceedings against a child.

19. *"Dispositional hearing"* means a hearing held after an adjudication to determine what dispositional order should be made.

20. *"Family in need of assistance"* means a family in which there has been a breakdown in the relationship between a child and the child's parent, guardian, or custodian.

21. *a.* "*Guardian*" means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child, to have a permanent self-sustaining relationship with the child and to make important decisions which have a permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

(1) To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.

(2) To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.

(3) To serve as custodian, unless another person has been appointed custodian.

(4) To make periodic visitations if the guardian does not have physical possession or custody of the child.

(5) To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

(6) To make other decisions involving protection, education, and care and control of the child.

22. *a.* *"Guardian ad litem"* means a person appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party, and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions or petitions pursuant to section 232.54, subsection 1, paragraphs *"a"* and *"d"*, section 232.103, subsection 2, paragraph *"c"*, and section 232.111.

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

(1) Conducting in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.

(2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2).

(5) Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

(7) If the child is required to have a transition plan developed in accordance with the child's case permanency plan and subject to review and approval of a transition committee under section 235.7, assisting the transition committee in development of the transition plan.

c. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child, may attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem, and may inspect and copy any records relevant to the proceedings.

d. If authorized by the court, a guardian ad litem may continue a relationship with and provide advice to a child for a period of time beyond the child's eighteenth birthday.

23. *"Health practitioner"* means a licensed physician or surgeon, osteopathic physician or surgeon, dentist, optometrist, podiatric physician, or chiropractor, a resident or intern of any such profession, and any registered nurse or licensed practical nurse.

24. *"Informal adjustment"* means the disposition of a complaint without the filing of a petition and may include but is not limited to the following:

a. Placement of the child on nonjudicial probation.

b. Provision of intake services.

c. Referral of the child to a public or private agency other than the court for services.

25. *"Informal adjustment agreement"* means an agreement between an intake officer, a child who is the subject of a complaint, and the child's parent, guardian, or custodian providing for the informal adjustment of the complaint.

26. *"Intake"* means the preliminary screening of complaints by an intake officer to determine whether the court should take some action and if so, what action.

27. *"Intake officer"* means a juvenile court officer or other officer appointed by the court to perform the intake function.

28. *"Judge"* means the judge of a juvenile court.

29. *"Juvenile"* means the same as *"child"*. However, in the interstate compact for juveniles, section 232.173, *"juvenile"* means a person defined as a juvenile in the compact.

30. *"Juvenile court officer"* means a person appointed as a juvenile court officer under section 602.7202 and a chief juvenile court officer appointed under section 602.1217.

31. *"Juvenile court social records"* or *"social records"* means all records made with respect to a child in connection with proceedings over which the court has jurisdiction under this chapter other than official records and includes but is not limited to the records made and compiled by intake officers, predisposition reports, and reports of physical and mental examinations.

32. *"Juvenile detention home"* means a physically restricting facility used only for the detention of children.

33. *"Juvenile parole officer"* means a person representing an agency which retains jurisdiction over the case of a child adjudicated to have committed a delinquent act, placed in a secure facility and subsequently released, who supervises the activities of the child until the case is dismissed.

34. *"Juvenile shelter care home"* means a physically unrestricting facility used only for the shelter care of children.

35. *"Mental injury"* means a nonorganic injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, considering the child's cultural origin.

36. *"Nonjudicial probation"* means the informal adjustment of a complaint which involves the supervision of the child who is the subject of the complaint by an intake officer or juvenile court officer for a period during which the child may be required to comply with specified conditions concerning the child's conduct and activities.

37. *"Nonsecure facility"* means a physically unrestricting facility in which children may be placed pursuant to a dispositional order of the court made in accordance with the provisions of this chapter.

38. *"Official juvenile court records"* or *"official records"* means official records of the court of proceedings over which the court has jurisdiction under this chapter which includes but is not limited to the following:

a. The docket of the court and entries therein.

b. Complaints, petitions, other pleadings, motions, and applications filed with a court.

c. Any summons, notice, subpoena, or other process and proofs of publication.

d. Transcripts of proceedings before the court.

e. Findings, judgments, decrees, and orders of the court.

39. *"Parent"* means a biological or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

40. *"Peace officer"* means a law enforcement officer or a person designated as a peace officer by a provision of the Code.

41. *"Petition"* means a pleading the filing of which initiates formal judicial proceedings in the juvenile court.

42. *"Physical abuse or neglect"* or *"abuse or neglect"* means any nonaccidental physical injury suffered by a child as the result of the acts or omissions of the child's parent, guardian, or custodian or other person legally responsible for the child.

42A. *"Preadoptive care"* means the provision of parental nurturing on a full-time basis to a child in foster care by a person who has signed a preadoptive placement agreement with the department for the purposes of proceeding with a legal adoption of the child. Parental nurturing includes but is not limited to furnishing of food, lodging, training, education, treatment, and other care.

43. *"Predisposition investigation"* means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a delinquency case over which the court has jurisdiction.

44. *"Predisposition report"* is a report furnished to the court which contains the information collected during a predisposition investigation.

45. *"Probation"* means a legal status which is created by a dispositional order of the court in a case where a child has been adjudicated to have committed a delinquent act, which exists for a specified period of time, and which places the child under the supervision of a juvenile court officer or other person or agency designated by the court. The probation order may

require a child to comply with specified conditions imposed by the court concerning conduct and activities, subject to being returned to the court for violation of those conditions.

46. *"Registry"* means the central registry for child abuse information as established under chapter 235A.

47. *"Residual parental rights and responsibilities"* means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person of the child. These include but are not limited to the right of visitation, the right to consent to adoption, and the responsibility for support.

48. *"Secure facility"* means a physically restricting facility in which children adjudicated to have committed a delinquent act may be placed pursuant to a dispositional order of the court.

49. *"Sexual abuse"* means the commission of a sex offense as defined by the penal law.

50. *"Shelter care"* means the temporary care of a child in a physically unrestricting facility at any time between a child's initial contact with juvenile authorities and the final judicial disposition of the child's case.

51. *"Shelter care hearing"* means a hearing at which the court determines whether it is necessary to place or retain a child in shelter care.

52. *"Sibling"* means an individual who is related to another individual by blood, adoption, or affinity through a common legal or biological parent.

53. *"Social investigation"* means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a child in need of assistance case over which the court has jurisdiction.

54. *"Social report"* means a report furnished to the court which contains the information collected during a social investigation.

55. *"Taking into custody"* means an act which would be governed by the laws of arrest under the criminal code if the subject of the act were an adult. The taking into custody of a child is subject to all constitutional and statutory protections which are afforded an adult upon arrest.

56. *"Termination hearing"* means a hearing held to determine whether the court should terminate a parent-child relationship.

57. *"Termination of the parent-child relationship"* means the divestment by the court of the parent's and child's privileges, duties, and powers with respect to each other.

58. *"Voluntary placement"* means a foster care placement in which the department provides foster care services to a child according to a signed placement agreement between the department and the child's parent or guardian.

59. *"Waiver hearing"* means a hearing at which the court determines whether it shall waive its jurisdiction over a child alleged to have committed a delinquent act so that the state may prosecute the child as if the child were an adult.

[S13, §254-a14, -a21; C24, 27, 31, 35, 39, §**3618, 3619, 3620, 3638;** C46, 50, 54, 58, 62, §232.2, 232.3, 232.4, 232.22; C66, 71, 73, 75, 77, 79, 81, §232.2; 82 Acts, ch 1209, §1]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10054, 10055, 10201; 84 Acts, ch 1279, §1, 2; 87 Acts, ch 121, §1, 2; 88 Acts, ch 1134, §46, 47; 89 Acts, ch 169, §1; 89 Acts, ch 229, §1 – 4; 89 Acts, ch 230, §1, 2; 90 Acts, ch 1251, §22; 91 Acts, ch 232, §1; 92 Acts, ch 1231, §10; 93 Acts, ch 93, §1; 94 Acts, ch 1046, §1, 2; 94 Acts, ch 1172, §12; 95 Acts, ch 108, §16; 95 Acts, ch 147, §3; 95 Acts, ch 182, §1, 2, 6; 95 Acts, ch 191, §7; 96 Acts, ch 1092, §1; 97 Acts, ch 90, §1; 97 Acts, ch 126, §10; 97 Acts, ch 164, §1; 98 Acts, ch 1019, §1; 98 Acts, ch 1047, §21; 98 Acts, ch 1190, §1 – 3; 99 Acts, ch 164, §1; 99 Acts, ch 208, §33, 34; 2000 Acts, ch 1067, §4, 5; 2000 Acts, ch 1232, §56; 2001 Acts, ch 46, §1; 2001 Acts, ch 67, §7, 13; 2002 Acts, ch 1081, §1; 2002 Acts, ch 1162, §16; 2003 Acts, ch 117, §1 – 3; 2004 Acts, ch 1090, §33; 2004 Acts, ch 1116, §3; 2005 Acts, ch 117, §2, 4; 2005 Acts, ch 124, §1; 2007 Acts, ch 67, §1, 2; 2007 Acts, ch 172, §2, 3; 2008 Acts, ch 1088, §141; 2008 Acts, ch 1112, §1; 2008 Acts, ch 1187, § 131; 2009 Acts, ch 41, §231, 232; 2009 Acts, ch 120, §1, 2; 2010 Acts, ch 1151, §1; 2010 Acts, ch 1192, §74

Referred to in §13B.9, 135.119, 232.68, 232.82, 232.83, 232.98, 232.102, 232.117, 232.147, 232.149, 235.7, 235A.15, 237.3, 237.15, 282.30, 709A.5, 915.37

232.3 Concurrent court proceedings.

1. During the pendency of an action under this chapter, a party to the action is estopped

from litigating concurrently the custody, guardianship, or placement of a child who is the subject of the action, in a court other than the juvenile court. A district judge, district associate judge, magistrate, or judicial hospitalization referee, upon notice of the pendency of an action under this chapter, shall not issue an order, finding, or decision relating to the custody, guardianship, or placement of the child who is the subject of the action, under any law, including but not limited to chapter 598, 598B, or 633.

2. The juvenile court with jurisdiction of the pending action under this chapter, however, may, upon the request of a party to the action or on its own motion, authorize the party to litigate concurrently in another court a specific issue relating to the custody, guardianship, or placement of the child who is the subject of the action. Before authorizing a party to litigate a specific issue in another court, the juvenile court shall give all parties to the action an opportunity to be heard on the proposed authorization. The juvenile court may request but shall not require another court to exercise jurisdiction and adjudicate a specific issue relating to the custody, guardianship, or placement of the child.

83 Acts, ch 21, §2; 83 Acts, ch 186, §10056, 10201; 99 Acts, ch 103, §42

232.4 Jurisdiction — support obligation.

Notwithstanding any other provision of this chapter, and for the purposes of establishing a parental liability obligation for a child under the jurisdiction of the juvenile court, a support obligation shall be established pursuant to section 234.39.

92 Acts, ch 1195, §302; 94 Acts, ch 1171, §7

232.5 Abortion performed on a minor — waiver of notification proceedings.

The court shall have exclusive jurisdiction over the proceedings for the granting of an order for waiver of the notification requirements relating to the performance of an abortion on a minor pursuant to section 135L.3.

96 Acts, ch 1011, §10; 96 Acts, ch 1174, §6

232.6 Jurisdiction — adoptions and terminations of parental rights.

The court may exercise jurisdiction over adoption and termination of parental rights proceedings under chapters 600 and 600A.

2000 Acts, ch 1145, §1

232.7 Iowa Indian child welfare Act.

1. If a proceeding held under this chapter involves an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B.

2. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1999, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

2003 Acts, ch 153, §1

DIVISION II

JUVENILE DELINQUENCY PROCEEDINGS

Referred to in §232.89, 232.108, 232.147

PART 1

GENERAL PROVISIONS

232.8 Jurisdiction.

1. *a.* The juvenile court has exclusive original jurisdiction in proceedings concerning a

child who is alleged to have committed a delinquent act unless otherwise provided by law, and has exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, and who has been transferred to the jurisdiction of the juvenile court pursuant to an order under section 803.5.

b. Violations by a child of provisions of chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

c. Violations by a child, aged sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "*e*" or "*f*", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section, in the same manner as regarding an adult. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

d. The juvenile court shall have jurisdiction in proceedings commenced against a child pursuant to section 236.3 over which the district court has waived its jurisdiction. The juvenile court shall hear the action in the manner of an adjudicatory hearing under section 232.47, subject to the following:

(1) The juvenile court shall abide by the provisions of sections 236.4 and 236.6 in holding hearings and making a disposition.

(2) The plaintiff is entitled to proceed pro se under sections 236.3A and 236.3B.

2. A case involving a person charged in a court other than the juvenile court with the commission of a public offense not exempted by law from the jurisdiction of the juvenile court and who is within the provisions of subsection 1 of this section shall immediately be transferred to the juvenile court. The transferring court shall order a transfer and shall forward the transfer order together with all papers, documents and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court. The jurisdiction of the juvenile court shall attach immediately upon the signing of an order of transfer. From the time of transfer, the custody, shelter care and detention of the person alleged to have committed a delinquent act shall be in accordance with the provisions of this chapter and the case shall be processed in accordance with the provisions of this chapter.

3. *a.* The juvenile court, after a hearing and in accordance with the provisions of section 232.45, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult or youthful offender for such offense in another court. If the child, except a child being prosecuted as a youthful offender, pleads guilty or is found guilty of a public offense other than a class "A" felony in another court of this state, that court may suspend the sentence or, with the consent of the child, defer judgment and without regard to restrictions placed upon deferred judgments for adults, place the child on probation for a period of not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation, a child who receives a deferred judgment shall be discharged without entry of judgment.

b. This subsection does not apply in a proceeding concerning an offense of animal torture

as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

4. In a proceeding concerning a child who is alleged to have committed a second delinquent act or a second violation excluded from the jurisdiction of the juvenile court, the court or the juvenile court shall determine whether there is reason to believe that the child regularly abuses alcohol or other controlled substance and may be in need of treatment. If the court so determines, the court shall advise appropriate juvenile authorities and refer such offenders to the juvenile court for disposition pursuant to section 232.52A.

5. Nothing in this chapter shall be interpreted as affecting the statutory limitations on prosecutions for murder in the first or second degree.

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.

[C71, 73, 75, 77, §232.63 – 232.67, 232.72; C79, 81, §232.8]

84 Acts, ch 1275, §6; 86 Acts, ch 1186, §1, 2; 87 Acts, ch 149, §1; 88 Acts, ch 1134, §48; 88 Acts, ch 1167, §1; 90 Acts, ch 1251, §23, 24; 91 Acts, ch 240, §9; 92 Acts, ch 1160, §21; 92 Acts, ch 1231, §12; 95 Acts, ch 180, §2; 95 Acts, ch 191, §8; 96 Acts, ch 1134, §1; 97 Acts, ch 126, §11; 2000 Acts, ch 1056, §1; 2000 Acts, ch 1152, §1, 2; 2000 Acts, ch 1232, §57, 58; 2004 Acts, ch 1132, §79; 2009 Acts, ch 41, §263

Referred to in §232.22, 232.45, 232.45A, 232.52A, 232.53, 232C.4, 717B.3A, 803.5, 803.6

232.9 Motion for change of judge.

Prior to a hearing pursuant to sections 232.44 to 232.47, 232.50 or 232.54, the child may file a motion with the district court for the appointment of a new judge. The chief judge of the district court for cause shown shall appoint a new judge.

[C79, 81, §232.9]

232.10 Venue.

1. Venue for delinquency proceedings shall be in the judicial district where the child is found, where the child resides or where the alleged delinquent act occurred.

2. The court may transfer delinquency proceedings to the court of any county having venue at any stage in the proceeding as follows:

a. When it appears that the best interests of the child or society or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the child's residence.

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

c. The court may transfer the case to the county where the alleged delinquent act occurred.

3. 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.

[C71, 73, 75, 77, §232.68 – 232.70; C79, 81, §232.10]

88 Acts, ch 1134, §49

232.11 Right to assistance of counsel.

1. A child shall have the right to be represented by counsel at the following stages of the proceedings within the jurisdiction of the juvenile court under division II:

a. From the time the child is taken into custody for any alleged delinquent act that constitutes a serious or aggravated misdemeanor or felony under the Iowa criminal code, and during any questioning thereafter by a peace officer or probation officer.

b. A detention or shelter care hearing as required by section 232.44.

c. A waiver hearing as required by section 232.45.

d. An adjudicatory hearing required by section 232.47.

e. A dispositional hearing as required by section 232.50.

f. Hearings to review and modify a dispositional order as required by section 232.54.

2. The child's right to be represented by counsel under subsection 1, paragraphs "*b*" to "*f*" of this section shall not be waived by a child of any age. The child's right to be represented by counsel under subsection 1, paragraph "*a*" shall not be waived by a child less than sixteen years of age without the written consent of the child's parent, guardian, or custodian. The waiver by a child who is at least sixteen years of age is valid only if a good faith effort has been made to notify the child's parent, guardian, or custodian that the child has been taken into custody and of the alleged delinquent act for which the child has been taken into custody, the location of the child, and the right of the parent, guardian, or custodian to visit and confer with the child.

3. If the child is not represented by counsel as required under subsection 1, counsel shall be provided as follows:

a. If the court determines, after giving the child's parent, guardian or custodian an opportunity to be heard, that such person has the ability in whole or in part to pay for the employment of counsel, it shall either order that person to retain an attorney to represent the child or shall appoint counsel for the child and order the parent, guardian or custodian to pay for that counsel as provided in subsection 5.

b. If the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel to represent the child, it shall appoint counsel, who shall be reimbursed according to section 232.141, subsection 2, paragraph "*b*".

c. The court may appoint counsel to represent the child and reserve the determination of payment until the parent, guardian or custodian has an opportunity to be heard.

4. If the child is represented by counsel and the court determines that there is a conflict of interest between the child and the child's parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child and order the parent, guardian or custodian to pay for such counsel as provided in subsection 5.

5. If the court determines, after an inquiry which includes notice and reasonable opportunity to be heard that the parent, guardian or custodian has the ability to pay in whole or in part for the attorney appointed for the child, the court may order that person to pay such sums as the court finds appropriate in the manner and to whom the court directs. If the person so ordered fails to comply with the order without good reason, the court shall enter judgment against the person.

6. Nothing in this section shall be construed to prevent the child or the child's parent, guardian or custodian from retaining counsel to represent the child in proceedings under this division II of this chapter in which the alleged delinquent act constitutes a simple misdemeanor under the Iowa Code.

[C24, 27, 31, 35, 39, §**3631;** C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.28; C79, 81, §232.11; 82 Acts, ch 1209, §2]

90 Acts, ch 1168, §34

Referred to in §232.28, 232.37, 232.52, 815.9

232.12 Duties of county attorney.

Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

[C66, 71, 73, 75, 77, §232.19; C79, 81, §232.12]

232.13 State liability.

1. For purposes of chapter 669, the following persons shall be considered state employees:

a. A child given a work assignment of value to the state or the public or a community work assignment under this chapter.

b. A court appointed special advocate and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19.

2. The state of Iowa is exclusively liable for and shall pay any compensation becoming due a person under section 85.59.

84 Acts, ch 1280, §2; 85 Acts, ch 177, §2; 87 Acts, ch 24, §1; 87 Acts, ch 121, §3; 2005 Acts, ch 55, §1

232.14 through 232.18 Reserved.

PART 2

CHILD CUSTODY

232.19 Taking a child into custody.

1. A child may be taken into custody:

a. By order of the court.

b. For a delinquent act pursuant to the laws relating to arrest.

c. By a peace officer, when the peace officer has reasonable grounds to believe the child has run away from the child's parents, guardian, or custodian, for the purposes of determining whether the child shall be reunited with the child's parents, guardian, or custodian, placed in shelter care, or, if the child is a chronic runaway and the county has an approved county runaway treatment plan, placed in a runaway assessment center under section 232.196.

d. By a peace officer, juvenile court officer, or juvenile parole officer when the officer has reasonable grounds to believe the child has committed a material violation of a dispositional order.

2. When a child is taken into custody as provided in subsection 1 the person taking the child into custody shall notify the child's parent, guardian, or custodian as soon as possible. The person may place bodily restraints, such as handcuffs, on the child if the child physically resists; threatens physical violence when being taken into custody; is being taken into custody for an alleged delinquent act of violence against a person; or when, in the reasonable judgment of the officer, the child presents a risk of injury to the child or others. The child may also be restrained by handcuffs or other restraints at any time after the child is taken into custody if the child has a known history of physical violence to others. Unless the child is placed in shelter care or detention in accordance with the provisions of section 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

3. Notwithstanding any other provision of this chapter, a child shall not be placed in detention as a result of a violation by that child of section 123.47.

4. Information pertaining to a child who is at least ten years of age and who is taken into custody for a delinquent act which would be a public offense is a public record and is not confidential under section 232.147.

[SS15, §254-a16; C24, 27, 31, 35, 39, §**3630;** C46, 50, 54, 58, 62, §232.14; C66, 71, 73, 75, 77, §232.15, 232.16; C79, 81, §232.19]

83 Acts, ch 186, §10055, 10201; 90 Acts, ch 1251, §25; 94 Acts, ch 1172, §13; 97 Acts, ch 90, §2; 97 Acts, ch 126, §12, 13; 98 Acts, ch 1100, §24

Referred to in §123.46, 232.20, 232.21, 232.149, 232.196, 321J.1, 692.1

232.20 Admission of child to shelter care or detention.

1. If a child is taken into custody and not released as provided in section 232.19, subsection 2, the child shall immediately be taken to a detention or shelter care facility as specified in sections 232.21 or 232.22.

2. When a child is admitted to a detention or shelter care facility the person in charge of the facility or the person's designated representative shall notify the court, the child's attorney,

and the child's parent, guardian, or custodian as soon as possible of the admission and the reasons for that admission.

[C66, 71, 73, 75, 77, §232.17; C79, 81, §232.20]

Referred to in §234.35

232.21 Placement in shelter care.

1. No child shall be placed in shelter care unless one of the following circumstances applies:

a. The child has no parent, guardian, custodian, responsible adult relative or other adult approved by the court who will provide proper shelter, care and supervision.

b. The child desires to be placed in shelter care.

c. It is necessary to hold the child until the child's parent, guardian, or custodian has been contacted and has taken custody of the child.

d. It is necessary to hold the child for transfer to another jurisdiction.

e. The child is being placed pursuant to an order of the court.

2. *a.* A child may be placed in shelter care as provided in this section only in one of the following facilities:

(1) A juvenile shelter care home.

(2) A licensed foster home.

(3) An institution or other facility operated by the department of human services, or one which is licensed or otherwise authorized by law to receive and provide care for the child.

(4) Any other suitable place designated by the court provided that no place used for the detention of a child may be so designated.

b. Placement shall be made in the least restrictive facility available consistent with the best interests and special needs of the child. Foster family care shall be used for a child unless the child has problems requiring specialized service or supervision which cannot be provided in a family living arrangement.

3. When there is reason to believe that a child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "*c*", would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to ensure the child's continued custody.

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action 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. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "*c*", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter care placement 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 be used by the department to assist in obtaining federal funding for the child's placement.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "*c*", with the child's family, a child in need of assistance complaint may be filed pursuant to section 232.81. Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section 232.125.

6. A child twelve years of age or younger shall not be placed in a group shelter care home, unless there have been reasonable but unsuccessful efforts to place the child in an

emergency foster family home which is able to meet the needs of the child. The efforts shall be documented at the shelter care hearing.

[S13, §254-a24; SS15, §254-a16; C24, 27, 31, 35, 39, §**3633;** C46, 50, 54, 58, 62, §232.17; C66, 71, 73, 75, 77, §232.17, 232.18; C79, 81, §232.21; 82 Acts, ch 1209, §3]

83 Acts, ch 96, §157, 159; 88 Acts, ch 1249, §10, 11; 2001 Acts, ch 135, §5; 2001 Acts, ch 176, §64; 2002 Acts, ch 1050, §22; 2009 Acts, ch 41, §263

Referred to in §232.19, 232.20, 232.44, 232.196, 234.35

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 division (b), paragraph "*b*", subparagraph (2), subparagraph division (b), or paragraph "*c*", subparagraph (2), subparagraph division (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. (1) 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:

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

(b) 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.

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

(d) 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.

(2) 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 "*c*" 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 "*c*" 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.* 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:

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

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

(3) 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.

(4) The child is awaiting an initial hearing before the court pursuant to section 232.44.

b. 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, §232.17 – 232.19; C79, 81, §232.22; 82 Acts, ch 1209, §4, 5]

86 Acts, ch 1186, §3; 87 Acts, ch 149, §2 – 4; 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; 2009 Acts, ch 41, §233, 234, 263

Referred to in §232.19, 232.20, 232.23, 232.29, 232.44, 232.46, 232.52, 232.149, 803.6

232.23 Detention — youthful offenders.

1. After waiver of a child who will be prosecuted as a youthful offender, the child shall be held in a facility under section 232.22, subsection 3, paragraph "*a*" or "*b*", unless released in accordance with subsection 2.

2. *a.* The court shall determine, at the detention hearing under section 232.44, the amount of bail, appearance bond, or other conditions necessary for a child who has been waived for prosecution as a youthful offender to be released from detention or that the child should not be released from detention.

b. A child placed in detention or released under this subsection shall be supervised by a juvenile court officer or juvenile court services personnel.

c. An order under this section may be reviewed by the court upon motion of either party.

97 Acts, ch 126, §15

Referred to in §232.44, 232.45, 602.1211

232.24 through 232.27 Reserved.

PART 3

INTAKE

232.28 Intake.

1. Any person having knowledge of the facts may file a complaint with the court or its designee alleging that a child has committed a delinquent act. A written record shall be maintained of any oral complaint received.

2. The court or its designee shall refer the complaint to an intake officer who shall consult with law enforcement authorities having knowledge of the facts and conduct a preliminary inquiry to determine what action should be taken.

3. In the course of a preliminary inquiry, the intake officer may:

a. Interview the complainant, victim or witnesses of the alleged delinquent act.

b. Check existing records of the court, law enforcement agencies and public records of other agencies.

c. Hold conferences with the child and the child's parent or parents, guardian or custodian for the purpose of interviewing them and discussing the disposition of the complaint in accordance with the requirements set forth in subsection 8.

d. Examine any physical evidence pertinent to the complaint.

e. Interview such persons as are necessary to determine whether the filing of a petition would be in the best interests of the child and the community as provided in section 232.35, subsections 2 and 3.

4. Any additional inquiries may be made only with the consent of the child and the child's parent or parents, guardian or custodian.

5. Participation of the child and the child's parent or parents, guardian or custodian in a conference with an intake officer shall be voluntary, and they shall have the right to refuse to participate in such conference. At such conference the child shall have the right to the assistance of counsel in accordance with section 232.11 and the right to remain silent when questioned by the intake officer.

6. The intake officer, after consultation with the county attorney when necessary, shall determine whether the complaint is legally sufficient for the filing of a petition. A complaint shall be deemed legally sufficient for the filing of a petition if the facts as alleged are sufficient to establish the jurisdiction of the court and probable cause to believe that the child has committed a delinquent act. If the intake officer determines that the complaint is legally sufficient to support the filing of a petition, the officer shall determine whether the interests of the child and the public will best be served by the dismissal of the complaint, the informal adjustment of the complaint, or the filing of a petition.

7. If the intake officer determines that the complaint is not legally sufficient for the filing of a petition or that further proceedings are not in the best interests of the child or the public, the intake officer shall dismiss the complaint.

8. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that an informal adjustment of the complaint is in the best interests of the child and the community, the officer may make an informal adjustment of the complaint in accordance with section 232.29.

9. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that the filing of a petition is in the best interests of the child and the public, the officer shall request the county attorney to file a petition in accordance with section 232.35.

[SS15, §254-a15; C24, 27, 31, 35, 39, §**3621;** C46, 50, 54, 58, 62, §232.5; C66, 71, 73, 75, 77, §232.3; C79, 81, §232.28; 82 Acts, ch 1209, §6, 7]

88 Acts, ch 1134, §50; 95 Acts, ch 191, §10; 96 Acts, ch 1110, §1; 97 Acts, ch 126, §16, 17; 98 Acts, ch 1090, §61, 84

Referred to in §232.147, 915.26

232.28A Repealed by 98 Acts, ch 1090, § 81, 84.

232.29 Informal adjustment.

1. The informal adjustment of a complaint is a permissible disposition of a complaint at intake subject to the following conditions:

a. The child has admitted the child's involvement in a delinquent act.

b. The intake officer shall advise the child and the child's parent, guardian or custodian that they have the right to refuse an informal adjustment of the complaint and demand the filing of a petition and a formal adjudication.

c. Any informal adjustment agreement shall be entered into voluntarily and intelligently by the child with the advice of the child's attorney, or by the child with the consent of a parent, guardian, or custodian if the child is not represented by counsel.

d. The terms of such agreement shall be clearly stated in writing and signed by all parties to the agreement and a copy of this agreement shall be given to the child; the counsel for the child; the parent, guardian or custodian; and the intake officer, who shall retain the copy in the case file.

e. An agreement providing for the supervision of a child by a juvenile court officer or the provision of intake services shall not exceed six months.

f. An agreement providing for the referral of a child to a public or private agency for services shall not exceed six months.

g. The child and the child's parent, guardian or custodian shall have the right to terminate such agreement at any time and to request the filing of a petition and a formal adjudication.

h. If an informal adjustment of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period of six months from the date the informal adjustment agreement was entered into. If a petition is filed within this period the child's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court.

i. The person performing the duties of intake officer shall file a report at least annually with the court listing the number of informal adjustments made during the reporting time, the conditions imposed in each case, the number of informal adjustments resulting in dismissal without the filing of a petition, and the number of informal adjustments resulting in the filing of a petition upon the original complaint.

2. An informal adjustment agreement may prohibit a child from driving a motor vehicle for a specified period of time or under specific circumstances, require the child to perform a work assignment of value to the state or to the public, or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The juvenile court officer shall notify the state department of transportation of the informal adjustment prohibiting the child from driving.

3. The person performing the duties of intake officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the child attends, of any informal adjustment regarding the child, fourteen years of age or older, for an act which would be an aggravated misdemeanor or felony if committed by an adult.

4. An informal adjustment agreement regarding a child who has been placed in detention under section 232.22, subsection 1, paragraph "*g*", may include a provision that the child voluntarily participate in a batterers' treatment program under section 708.2B.

[C79, 81, §232.29; 82 Acts, ch 1209, §8]

83 Acts, ch 186, §10055, 10201; 94 Acts, ch 1172, §14; 95 Acts, ch 180, §4; 95 Acts, ch 191, §11

Referred to in §232.28, 232.147, 915.28

[P] Juvenile victim restitution; see chapter 232A and §915.24 – 915.29

232.30 through 232.34 Reserved.

PART 4

JUDICIAL PROCEEDINGS

232.35 Filing of petition.

1. A formal judicial proceeding to determine whether a child has committed a delinquent act shall be initiated by the filing by the county attorney of a petition alleging that a child has committed a delinquent act. After a petition has been filed, service of a summons requiring the child to appear before the court or service of a notice shall be made as provided in section 232.37.

2. If the intake officer determines that a complaint is legally sufficient for the filing of a petition alleging that a child has committed a delinquent act and that the filing of a petition would be in the best interests of the child and the community, the officer shall submit a written request for the filing of a petition to the county attorney. The county attorney may grant or deny the request of the intake officer for the filing of a petition. A determination by the county attorney that a petition should not be filed shall be final.

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.

[SS15, §254-a15; C24, 27, 31, 35, 39, §**3621;** C46, 50, 54, 58, 62, §232.5; C66, 71, 73, 75, 77, §232.3; C79, 81, §232.35]

92 Acts, ch 1231, §16; 2003 Acts, ch 151, §4

Referred to in §232.28, 331.653, 692.1, 692.8, 692.15

232.36 Contents of petition.

1. The petition and subsequent court documents shall be entitled "In the interests of ....., a child".

2. The petition shall be verified and any statements in the petition may be made upon information and belief.

3. The petition shall set forth plainly:

a. The name, age, and residence of the child who is the subject of the petition.

b. The names and residences of any:

(1) Living parent of the child.

(2) Guardian of the child.

(3) Legal custodian of the child.

(4) Guardian ad litem.

c. With reasonable particularity, the time, place and manner of the delinquent act alleged and the penal law allegedly violated by such act.

4. If any of the facts required under subsection 3, paragraphs *"a"* and *"b"* are not known by the petitioner, the petition shall so state.

5. The petition shall set forth plainly the nearest known relative of the child if no parent or guardian can be found.

[SS15, §254-a15; C24, 27, 31, 35, 39, §**3621, 3622;** C46, 50, 54, 58, 62, §232.5, 232.6; C66, 71, 73, 75, 77, §232.3; C79, 81, §232.36]

Referred to in §232.87

232.37 Summons, notice, subpoenas, and service — order for removal.

1. After a petition has been filed the court shall set a time for an adjudicatory hearing and unless the parties named in subsection 2 voluntarily appear, shall issue a summons requiring the child to appear before the court at a time and place stated and requiring the person who has custody or control of the child to appear before the court and to bring the child with the person at that time. The summons shall attach a copy of the petition and shall give notification of the right to counsel provided for in section 232.11.

2. Notice of the pendency of the case shall be served upon the known parents, guardians or legal custodians of a child if these persons are not summoned to appear as provided in subsection 1. Notice shall also be served upon the child and upon the child's guardian ad litem, if any. The notice shall attach a copy of the petition and shall give notification of the right to counsel provided for in section 232.11.

3. Upon request of the child who is identified in the petition as a party to the proceeding, the child's parent, guardian or custodian, a county attorney or on the court's own motion, the court or the clerk of the court shall issue subpoenas requiring the attendance and testimony of witnesses and production of papers at any hearing under this division.

4. Service of summons or notice shall be made personally by the sheriff by delivering a copy of the summons or notice to the person being served. If the court determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

5. If a person personally served with a summons or subpoena fails without reasonable cause to appear or to bring the child, the person may be proceeded against for contempt of court or the court may issue an order for the arrest of such person or both the arrest of the person and the taking into custody of the child.

6. The court may issue an order for the removal of the child from the custody of the child's parent, guardian or custodian when there exists an immediate threat that the parent, guardian or custodian will flee the state with the child, or when it appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health.

[SS15, 254-a16; C24, 27, 31, 35, 39, §**3623 – 3628, 3630;** C46, 50, 54, 58, 62, §232.7 – 232.12, 232.14; C66, 71, 73, 75, 77, §232.4 – 232.10; C79, 81, §232.37]

84 Acts, ch 1279, §3; 85 Acts, ch 195, §26; 95 Acts, ch 92, §1; 2003 Acts, ch 151, §5

Referred to in §232.35, 232.45, 232.54, 232.88, 331.653

232.38 Presence of parents at hearings.

1. Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of one or both of the child's parents, guardian or custodian except that a hearing or proceeding may take place without such presence if the parent, guardian or custodian fails to appear after reasonable notification, or if the court finds that a reasonably diligent effort has been made to notify the child's parent, guardian, or custodian, and the effort was unavailing.

2. In any such hearings or proceedings the court may temporarily excuse the presence of the parent, guardian or custodian when the court deems it in the best interests of the child. Counsel for the parent, guardian or custodian shall have the right to participate in a hearing or proceeding during the absence of the parent, guardian or custodian.

[SS15, §254-a16; C24, 27, 31, 35, 39, §**3631;** C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.11, 232.30; C79, 81, §232.38]

Referred to in §232.91

232.39 Exclusion of public from hearings.

At any time during the proceedings, the court, on the motion of any of the parties or upon the court's own motion, may exclude the public from hearings under this division if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

[C24, 27, 31, 35, 39, §**3635;** C46, 50, 54, 58, 62, §232.19; C66, 71, 73, 75, 77, §232.27; C79, 81, §232.39]

88 Acts, ch 1134, §51

232.40 Other issues adjudicated.

When it appears during the course of any hearing or proceeding that some action or remedy other than those indicated by the application or pleading is appropriate, the court, with the consent of all necessary parties, may proceed to hear and determine the additional or other issues as though originally properly sought and pleaded.

[C66, 71, 73, 75, 77, §232.12; C79, 81, §232.40]

232.41 Reporter required.

Stenographic notes or mechanical or electronic recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section 624.9.

[C66, 71, 73, 75, 77, §232.32; C79, 81, §232.41]

232.42 Continuances.

1. Continuances in juvenile delinquency proceedings may be granted by the court only for good cause shown on the record if the child is being held in detention.

2. Where the child requests a continuance of proceedings, the court, in an order granting the continuance, may suspend the time limitations imposed on the state by this division for a period of time not to exceed the length of the continuance.

3. Proceedings may be continued for up to one year upon the request of the county attorney and the child to permit the making of probation arrangements prior to the

adjudicatory hearing. If either the child or the county attorney requests that the adjudicatory hearing be held at any time during the period of the continuance, the court shall set the matter for hearing.

[S13, §254-a23; C24, 27, 31, 35, 39, §**3637;** C46, 50, 54, 58, 62, §232.21; C66, 71, 73, 75, 77, §232.34; C79, §232.13, 232.42; C81, §232.42]

94 Acts, ch 1172, §15

232.43 Answer — plea agreement — acceptance of plea admitting allegations of petition.

1. A written answer to a delinquency petition need not be filed by the child, but any matters which might be set forth in an answer or other pleading may be filed in writing or pleaded orally before the court.

2. The county attorney and the child's counsel may mutually consider a plea agreement which contemplates entry of a plea admitting the allegations of the petition in the expectation that other charges will be dismissed or not filed or that a specific disposition will be recommended by the county attorney and granted by the court. Any plea discussion shall be open to the child and the child's parent, guardian or custodian.

3. The court shall not accept a plea admitting the allegations of the petition without first addressing the child personally in court, determining that the plea is voluntary and not the result of any force or threats or promises other than promises made in connection with a plea agreement and informing the child of and determining that the child understands the following:

a. The nature of the allegations of the petition to which the plea is offered.

b. The severest possible disposition and the maximum length of such disposition which the court may order if the court accepts the plea.

c. The child has the right to deny the allegations of the petition.

d. If the child admits the allegations of the petition the child waives the right to a further adjudicatory hearing.

4. The court shall not accept a plea admitting the allegations of the petition without first addressing the county attorney and the child's counsel in court and making an inquiry into whether such a plea is the result of a plea agreement. The court shall require the disclosure of the terms of any such agreement in court. If a plea agreement has been reached which contemplates entry of the plea in the expectation that the court will order a specific disposition or dismiss other charges against the child before the court, the court shall state to the parties whether the court will concur in the proposed disposition or dismissal of charges. If the court will not concur in such disposition or dismissal, the court should advise the child personally of this fact, advise the child that the disposition of the case may be less favorable to the child than that contemplated by the plea agreement, and afford the child the opportunity to withdraw the plea. If the court defers decision as to whether the court will concur with the proposed disposition or dismissal until there has been an opportunity to consider the predisposition report, the court shall advise the child that the court is not bound by the plea agreement and afford the child the opportunity to withdraw the plea.

5. The court shall not accept a plea admitting the allegations of the petition without:

a. Determining that there is a factual basis for the plea.

b. Determining that the child was given effective assistance of counsel prior to tender of the plea.

c. Inquiring of the parent or parents who are present in court whether they agree as to the course of action that their child has chosen. If either parent expresses disagreement with the plea, the court may refuse to accept that plea.

6. If the court determines that a plea is not in the child's best interest it may refuse to accept that plea regardless of the agreement of the parties.

[C79, 81, §232.43]

232.44 Detention or shelter care hearing — release from detention upon change of circumstance.

1. *a.* A hearing shall be held within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of the time of the child's admission to a shelter care facility, and within

twenty-four hours, excluding Saturdays, Sundays, and legal holidays, of the time of a child's admission to a detention facility. If the hearing is not held within the time specified in this paragraph, the child shall be released from shelter care or detention.

b. Prior to the hearing a petition shall be filed, except where the child is already under the supervision of a juvenile court under a prior judgment.

c. If the child is placed in a detention facility in a county other than the county in which the child resides or in which the delinquent act allegedly occurred but which is within the same judicial district, the hearing may take place in the county in which the detention facility is located.

d. The child shall appear in person at the hearing required by this subsection.

2. The county attorney or a juvenile court officer may apply for a hearing at any time after the petition is filed to determine whether the child who is the subject of the petition should be placed in detention or shelter care. The court may upon the application or upon its own motion order such hearing. The court shall order a detention hearing for a child waived under section 232.45, subsection 7, at the time of waiver.

3. A notice shall be served upon the child, the child's attorney, the child's guardian ad litem if any, and the child's known parent, guardian, or custodian not less than twelve hours before the time the hearing is scheduled to begin and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. In the case of a hearing for a child waived for prosecution as a youthful offender, this notice may accompany the waiver order. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian, or custodian and that the effort has been unavailing, the hearing may proceed without the notice having been served.

4. At the hearing to determine whether detention or shelter care is authorized under section 232.21 or 232.22 the court shall admit only testimony and other evidence relevant to the determination of whether there is probable cause to believe the child has committed the act as alleged in the petition and to the determination of whether the placement of the child in detention or shelter care is authorized under section 232.21 or 232.22. At the hearing to determine whether a child who has been waived for prosecution as a youthful offender should be released from detention the court shall also admit evidence of the kind admissible to determine bond or bail under chapter 811, notwithstanding section 811.1. Any written reports or records made available to the court at the hearing shall be made available to the parties. A copy of the petition or waiver order shall be given to each of the parties at or before the hearing.

5. The court shall find release to be proper under the following circumstances:

a. If the court finds that there is not probable cause to believe that the child is a child within the jurisdiction of the court under this chapter, it shall release the child and dismiss the petition.

b. If the court finds that detention or shelter care is not authorized under section 232.21 or 232.22, or is authorized but not warranted in a particular case, the court shall order the child's release, and in so doing, may impose one or more of the following conditions:

(1) Place the child in the custody of a parent, guardian or custodian under that person's supervision, or under the supervision of an organization which agrees to supervise the child.

(2) Place restrictions on the child's travel, association, or place of residence during the period of release.

(3) Impose any other condition deemed reasonably necessary and consistent with the grounds for detaining children specified in section 232.21 or 232.22, including a condition requiring that the child return to custody as required.

(4) In the case of a child waived for prosecution as a youthful offender, require bail, an appearance bond, or set other conditions consistent with this section or section 811.2.

c. An order releasing a child on conditions specified in this section may be amended at any time to impose equally or less restrictive conditions. The order may be amended to impose additional or more restrictive conditions, or to revoke the release, if the child has failed to conform to the conditions originally imposed.

6. If the court finds that there is probable cause to believe that the child is within the jurisdiction of the court under this chapter and that full-time detention or shelter

care is authorized under section 232.21 or 232.22 or that detention is authorized under section 232.23, it may issue an order authorizing either shelter care or detention until the adjudicatory hearing or trial is held or for a period not exceeding seven days, whichever is shorter. However, in the case of a child placed in detention under section 232.23, this period may be extended by agreement of the parties and the court.

7. If a child held in shelter care or detention by court order has not been released after a detention hearing or has not appeared at an adjudicatory hearing before the expiration of the order of detention, an additional hearing shall automatically be scheduled for the next court day following the expiration of the order. The child, the child's counsel, the child's guardian ad litem, and the child's parent, guardian or custodian shall be notified of this hearing not less than twenty-four hours before the hearing is scheduled to take place. The hearing required by this subsection may be held by telephone conference call.

8. A child held in a detention or shelter care facility pursuant to section 232.21 or 232.22 under order of court after a hearing may be released upon a showing that a change of circumstances makes continued detention unnecessary.

9. A written request for the release of the child, setting forth the changed circumstances, may be filed by the child, by a responsible adult on the child's behalf, by the child's custodian, or by the juvenile court officer.

10. Based upon the facts stated in the request for release the court may grant or deny the request without a hearing, or may order that a hearing be held at a date, time and place determined by the court. Notice of the hearing shall be given to the child and the child's custodian or counsel. Upon receiving evidence at the hearing, the court may release the child to the child's custodian or other suitable person, or may deny the request and remand the child to the detention or shelter care facility.

11. This section does not apply to a child placed in accordance with section 232.78, 232.79, or 232.95.

[C79, 81, §232.44; 82 Acts, ch 1209, §9, 10]

87 Acts, ch 149, §5; 94 Acts, ch 1172, §16, 17; 95 Acts, ch 67, §15; 97 Acts, ch 126, §19; 2009 Acts, ch 41, §94

Referred to in §232.9, 232.11, 232.22, 232.23, 232.45

232.45 Waiver hearing and waiver of jurisdiction.

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense or for the purpose of prosecution of the child as an adult or a youthful offender. If the county attorney and the child agree, a motion for waiver for the purpose of being prosecuted as a youthful offender may be heard by the district court as part of the proceedings under section 907.3A, or by the juvenile court as provided in this section. If the motion for waiver for the purpose of being prosecuted as a youthful offender is made as a result of a conditional agreement between the county attorney and the child, the conditions of the agreement shall be disclosed to the court in the same manner as provided in rules of criminal procedure 2.8 and 2.10.

2. The court shall hold a waiver hearing on all such motions.

3. Reasonable notice that states the time, place, and purpose of the waiver hearing shall be provided to the persons required to be provided notice for adjudicatory hearings under section 232.37. Summons, subpoenas, and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section 232.37.

4. Prior to the waiver hearing, the juvenile probation officer or other person or agency designated by the court shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the child for the alleged commission of the public offense and shall submit a report concerning the investigation to the court. The report shall include any recommendations made concerning waiver. Prior to the hearing the court shall provide the child's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. At the waiver hearing all relevant and material evidence shall be admitted.

6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense if all of the following apply:

a. The child is fourteen years of age or older.

b. The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute the public offense.

c. The court determines that the state has established that there are not reasonable prospects for rehabilitating the child if the juvenile court retains jurisdiction over the child and the child is adjudicated to have committed the delinquent act, and that waiver of the court's jurisdiction over the child for the alleged commission of the public offense would be in the best interests of the child and the community.

7. *a.* At the conclusion of the waiver hearing and after considering the best interests of the child and the best interests of the community the court may, in order that the child may be prosecuted as a youthful offender, waive its jurisdiction over the child if all of the following apply:

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

(2) The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense under section 232.8, subsection 1, paragraph "*c*", notwithstanding the application of that paragraph to children aged sixteen or older.

(3) The court determines that the state has established that there are not reasonable prospects for rehabilitating the child, prior to the child's eighteenth birthday, if the juvenile court retains jurisdiction over the child and the child enters into a plea agreement, is a party to a consent decree, or is adjudicated to have committed the delinquent act.

b. The court shall retain jurisdiction over the child for the purpose of determining whether the child should be released from detention under section 232.23. If the court has been apprised of conditions of an agreement between the county attorney and the child which resulted in a motion for waiver for purposes of the child being prosecuted as a youthful offender, and the court finds that the conditions are in the best interests of the child, the conditions of the agreement shall constitute conditions of the waiver order.

8. In making the determination required by subsection 6, paragraph "*c*", the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. 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.

c. The programs, facilities and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities and personnel which would be available to the court that would have jurisdiction in the event the juvenile court waives its jurisdiction so that the child can be prosecuted as an adult.

9. In making the determination required by subsection 7, paragraph "*a*", subparagraph (3), the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. 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.

c. The age of the child, the programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities, and personnel which would be available to the district court after the child reaches the age of eighteen in the event the child is given youthful offender status.

10. If at the conclusion of the hearing the court waives its jurisdiction over the child for

the alleged commission of the public offense, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

11. *a.* If the court waives jurisdiction, statements made by the child after being taken into custody and prior to intake are admissible as evidence in chief against the child in subsequent criminal proceedings provided that the statements were made with the advice of the child's counsel or after waiver of the child's right to counsel and provided that the court finds the child had voluntarily waived the right to remain silent. Other statements made by a child are admissible as evidence in chief provided that the court finds the statements were voluntary. In making its determination, the court may consider any factors it finds relevant and shall consider the following factors:

(1) Opportunity for the child to consult with a parent, guardian, custodian, lawyer, or other adult.

(2) The age of the child.

(3) The child's level of education.

(4) The child's level of intelligence.

(5) Whether the child was advised of the child's constitutional rights.

(6) Length of time the child was held in shelter care or detention before making the statement in question.

(7) The nature of the questioning which elicited the statement.

(8) Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

b. Statements made by the child during intake or at a waiver hearing held pursuant to this section are not admissible as evidence in chief against the child in subsequent criminal proceedings over the child's objection in any event.

12. If the court waives its jurisdiction over the child for the alleged commission of the public offense so that the child may be prosecuted as an adult or a youthful offender, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution if the child objects.

13. The waiver does not apply to other delinquent acts which are not alleged in the delinquency petition presented at the waiver hearing.

14. *a.* If a child who is alleged to have delivered, manufactured, or possessed with intent to deliver or manufacture, a controlled substance except marijuana, as defined in chapter 124, is waived to district court for prosecution, the mandatory minimum sentence provided in section 124.413 shall not be imposed if a conviction is had; however, each child convicted of such an offense shall be confined for not less than thirty days in a secure facility.

b. Upon application of a person charged or convicted under the authority of this subsection, the district court shall order the records in the case sealed if:

(1) Five years have elapsed since the final discharge of that person; and

(2) The person has not been convicted of a felony or an aggravated or serious misdemeanor, or adjudicated a delinquent for an act which if committed by an adult would be a felony, or an aggravated or serious misdemeanor since the final discharge of that person.

[C79, 81, §232.45]

85 Acts, ch 130, §1, 2; 97 Acts, ch 126, §20 – 23; 2001 Acts, ch 135, §26; 2009 Acts, ch 41, §263

Referred to in §232.8, 232.9, 232.11, 232.22, 232.44, 232.45A, 232.51, 232.89, 803.5, 803.6, 903.1, 904.503, 907.3A, 915.37

[P] Age of majority deemed attained for certain purposes during incarceration following waiver and conviction; see §599.1

232.45A Waiver to and conviction by district court — processing.

1. Once jurisdiction over a child has been waived by the juvenile court as provided in section 232.45, for the alleged commission of a felony, and once a conviction is entered by the district court, for all other offenses, the clerk of the juvenile court shall immediately send a certified copy of the findings required by section 232.45, subsection 10, and the judgment of conviction, as applicable, to the department of public safety. The department shall maintain a file on each child who has previously been waived to or waived to and convicted by the district court in a prosecution as an adult. The file shall be accessible by law enforcement officers on a twenty-four hour per day basis.

2. Once a child sixteen years of age or older has been waived to and convicted of an

aggravated misdemeanor or a felony in the district court, all criminal proceedings against the child for any aggravated misdemeanor or felony 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 10, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for an aggravated misdemeanor or a felony who has previously been waived to and convicted of an aggravated misdemeanor or a felony in 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.

4. This section shall not apply to a child who was waived to the district court for the purpose of being prosecuted as a youthful offender.

91 Acts, ch 232, §4; 92 Acts, ch 1231, §17; 94 Acts, ch 1172, §18; 95 Acts, ch 191, §12; 97 Acts, ch 126, §24

Referred to in §232.9, 232.22

232.46 Consent decree.

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include prohibiting a child from driving a motor vehicle for a specified period of time or under specific circumstances, or the supervision of the child by a juvenile court officer or other agency or person designated by the court, and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The court shall notify the state department of transportation of an order prohibiting the child from driving.

2. A consent decree entered regarding a child placed in detention under section 232.22, subsection 1, paragraph "g", shall require the child to attend a batterers' treatment program under section 708.2B. The second time the child fails to attend the batterers' treatment as required by the consent decree shall result in the decree being vacated and proceedings commenced under section 232.47.

3. A consent decree shall not be entered unless the child and the child's parent, guardian or custodian is informed of the consequences of the decree by the court and the court determines that the child has voluntarily and intelligently agreed to the terms and conditions of the decree. If the county attorney objects to the entry of a consent decree, the court shall proceed to determine the appropriateness of entering a consent decree after consideration of any objections or reasons for entering such a decree.

4. A consent decree shall remain in force for up to one year unless the child is sooner discharged by the court or by the juvenile court officer or other agency or person supervising the child. Upon application of a juvenile court officer or other agency or person supervising the child made prior to the expiration of the decree and after notice and hearing, or upon agreement by the parties, a consent decree may be extended for up to an additional year by order of the court.

5. When a child has complied with the express terms and conditions of the consent decree for the required amount of time or until earlier dismissed as provided in subsection 4, the original petition may not be reinstated. However, failure to so comply may result in the child's being thereafter held accountable as if the consent decree had never been entered.

6. A child who is discharged or who completes a period of continuance without the reinstatement of the original petition shall not be proceeded against in any court for a delinquent act alleged in the petition.

[C79, 81, §232.46; 82 Acts, ch 1209, §11]

83 Acts, ch 186, §10055, 10201; 94 Acts, ch 1172, §19; 95 Acts, ch 180, §5; 2008 Acts, ch 1187, §132

Referred to in §232.9

232.47 Adjudicatory hearing — findings — adjudication.

1. If a child denies the allegations of the petition, that child may be found to be delinquent only after an adjudicatory hearing conducted in accordance with the provisions of this section.

2. The court shall hear and adjudicate all cases involving a petition alleging a child to have committed a delinquent act.

3. The child shall have the right to adjudication by an impartial finder of fact. A judge of the juvenile court may not serve as the finder of fact over objection of the child based upon a showing of prejudice on the part of the judge. In the event that a judge is disqualified from serving as a finder of fact under this provision, a substitute judge shall serve as the finder of fact.

4. At an adjudicatory hearing the state shall have the burden of proving the allegations of the petition.

5. Only evidence which is admissible under the rules of evidence applicable to the trial of criminal cases shall be admitted at the hearing except as otherwise provided by this section.

6. Statements or other evidence derived directly or indirectly from statements which a child makes to a law enforcement officer while in custody without presence of counsel may be admitted into evidence at an adjudicatory hearing over the child's objection only after the court determines whether the child has voluntarily waived the right to remain silent. In making its determination the court may consider any factors it finds relevant and shall consider the following factors:

a. Opportunity for the child to consult with a parent, guardian, custodian, lawyer or other adult.

b. The age of the child.

c. The child's level of education.

d. The child's level of intelligence.

e. Whether the child was advised of the child's constitutional rights.

f. Length of time the child was held in shelter care or detention before making the statement in question.

g. The nature of the questioning which elicited the statement.

h. Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

7. The following statements or other evidence shall not be admitted as evidence in chief at an adjudicatory hearing:

a. Statements or other evidence derived directly or indirectly from statements which a child makes to a juvenile intake officer without the presence of counsel subsequent to the filing of a complaint and prior to adjudication unless the child and the child's attorney consent to the admission of such statements or evidence.

b. Statements which the child makes to a juvenile probation officer or other person conducting a predisposition investigation during such an investigation.

8. At the conclusion of an adjudicatory hearing, the court shall make a finding as to whether the child has committed a delinquent act. The court shall make and file written findings as to the truth of the specific allegations of the petition and as to whether the child has engaged in delinquent conduct.

9. If the court finds that the child did not engage in delinquent conduct, the court shall enter an order dismissing the petition.

10. If the court finds that the child did engage in delinquent conduct, the court may enter an order adjudicating the child to have committed a delinquent act. The child shall be presumed to be innocent of the charges and no finding that a child has engaged in delinquent conduct may be made unless the state has proved beyond a reasonable doubt that the child engaged in such behavior.

11. If the court enters an order adjudicating the child to have committed a delinquent act, the court may issue an order authorizing either shelter care or detention until the dispositional hearing is held.

12. A juvenile court officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the

child attends of the child's adjudication for a delinquent act which would be an indictable offense if committed by an adult.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.47]

94 Acts, ch 1172, §20

Referred to in §232.8, 232.9, 232.11, 232.46, 232.48, 232.49, 232.50, 232.133

232.48 Predisposition investigation and report.

1. The court shall not make a disposition of the matter following the entry of an order of adjudication pursuant to section 232.47 until a predisposition report has been submitted to and considered by the court.

2. After a petition is filed, the court shall direct a juvenile court officer or any other agency or individual to conduct a predisposition investigation and to prepare a predisposition report. The investigation and report shall cover all of the following:

a. The social history, environment and present condition of the child and the child's family.

b. The performance of the child in school.

c. The presence of child abuse and neglect histories, learning disabilities, physical impairments and past acts of violence.

d. Other matters relevant to the child's status as a delinquent, treatment of the child or proper disposition of the case.

3. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing without the consent of the child and the child's counsel.

4. A predisposition report shall not be disclosed except as provided in this section and in division VIII of this chapter. The court shall permit the child's attorney to inspect the predisposition report prior to consideration by the court. The court may order counsel not to disclose parts of the report to the child, or to the child's parent, guardian, guardian ad litem, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the child. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

[C79, 81, §232.48]

83 Acts, ch 186, §10055, 10201; 85 Acts, ch 88, §1; 2005 Acts, ch 124, §2

232.49 Physical and mental examinations.

1. Following the entry of an order of adjudication under section 232.47 the court may, after a hearing which may be simultaneous with the adjudicatory hearing, order a physical or mental examination of the child if it finds that an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination. If the examination indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

2. When possible an examination shall be conducted on an outpatient basis, but the court may, if it deems necessary, commit the child to a suitable hospital, facility or institution for the purpose of examination. Commitment for examination shall not exceed thirty days and the civil commitment provisions of chapter 229 shall not apply.

3. *a.* At any time after the filing of a delinquency petition the court may order a physical or mental examination of the child if the following circumstances apply:

(1) The court finds such examination to be in the best interest of the child; and

(2) The parent, guardian, or custodian and the child's counsel agree.

b. An examination shall be conducted on an outpatient basis unless the court, the child's counsel, and the parent, guardian, or custodian agree that it is necessary the child

be committed to a suitable hospital, facility, or institution for the purpose of examination. Commitment for examination shall not exceed thirty days and the civil commitment provisions of chapter 229 shall not apply.

[C66, 71, 73, 75, 77, §232.13; C79, 81, §232.49]

86 Acts, ch 1186, §4; 2005 Acts, ch 124, §3; 2009 Acts, ch 41, §235

232.50 Dispositional hearing.

1. As soon as practicable following the entry of an order of adjudication pursuant to section 232.47 or notification that the child has received a youthful offender deferred sentence pursuant to section 907.3A, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

2. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to section 232.52, subsection 2, paragraph *"d"* or *"e"*, to determine the future disposition status of the child. The hearings shall not be waived or continued beyond twelve months after the last dispositional hearing or dispositional review hearing.

3. At dispositional hearings under this section all relevant and material evidence shall be admitted.

4. When a dispositional hearing under this section is concluded the court shall enter an order to make any one or more of the dispositions authorized under section 232.52.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.50]

87 Acts, ch 159, §1; 97 Acts, ch 99, §1; 97 Acts, ch 126, §25

Referred to in §232.9, 232.11, 232.52, 232.103

232.51 Disposition of child with mental illness or an intellectual disability.

1. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings in the juvenile court shall adhere to the requirements of chapter 229.

2. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child has an intellectual disability, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings shall adhere to the requirements of chapter 222.

3. *a.* If prior to the adjudicatory or dispositional hearing on the pending delinquency petition, the child is committed as a child with a mental illness or an intellectual disability and is ordered into a residential facility, institution, or hospital for inpatient treatment, the delinquency proceeding shall be suspended until such time as the juvenile court either terminates the civil commitment order or the child is released from the residential facility, institution, or hospital for purposes of receiving outpatient treatment.

b. During any time that the delinquency proceeding is suspended pursuant to this subsection, any time limits for speedy adjudicatory hearings and continuances shall be tolled.

c. This subsection shall not apply to waiver hearings held pursuant to section 232.45.

[C79, 81, §232.51]

83 Acts, ch 186, §10055, 10201; 86 Acts, ch 1186, §5; 96 Acts, ch 1129, §62; 2011 Acts, ch 10, §1; 2012 Acts, ch 1019, §85, 86

Referred to in §229.26

[T] Subsection 2 amended

[T] Subsection 3, paragraph a amended

232.52 Disposition of child found to have committed a delinquent act.

1. Pursuant to a hearing as provided in section 232.50, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child, the child's prior record, or the fact that the child has received a youthful offender deferred sentence under section 907.3A. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual,

agency, department or facility in whom custody is vested. In the case of a child who has received a youthful offender deferred sentence, the initial duration of the dispositional order shall be until the child reaches the age of eighteen.

2. The dispositional orders which the court may enter subject to its continuing jurisdiction are as follows:

a. An order prescribing one or more of the following:

(1) A work assignment of value to the state or to the public.

(2) Restitution consisting of monetary payment or a work assignment of value to the victim.

(3) If the child is fourteen years of age or older, restitution consisting of monetary payment or a work assignment of value to the county or to the public for fees of attorneys appointed to represent the child at public expense pursuant to section 232.11.

(4) (a) The suspension or revocation of the driver's license or operating privilege of the child, for a period of one year, for the commission of delinquent acts which are a violation of any of the following:

(i) Section 123.46.

(ii) Section 123.47 regarding the purchase or attempt to purchase of alcoholic beverages.

(iii) Chapter 124.

(iv) Section 126.3.

(v) Chapter 453B.

(vi) Two or more violations of section 123.47 regarding the possession of alcoholic beverages.

(vii) Section 708.1, if the assault is committed upon an employee of the school at which the child is enrolled, and the child intended to inflict serious injury upon the school employee or caused bodily injury or mental illness.

(viii) Section 724.4, if the child carried the dangerous weapon on school grounds.

(ix) Section 724.4B.

(b) The child may be issued a temporary restricted license or school license if the child is otherwise eligible.

(5) The suspension of the driver's license or operating privilege of the child for a period not to exceed one year. The order shall state whether a work permit may or shall not be issued to the child.

b. An order placing the child on probation and releasing the child to the child's parent, guardian, or custodian.

c. An order providing special care and treatment required for the physical, emotional, or mental health of the child, and

(1) Placing the child on probation or other supervision; and

(2) If the court deems appropriate, ordering the parent, guardian, or custodian to reimburse the county for any costs incurred as provided in section 232.141, subsection 1, or to otherwise pay or provide for such care and treatment.

d. An order transferring the legal custody of the child, subject to the continuing jurisdiction of the court for purposes of section 232.54, to one of the following:

(1) An adult relative or other suitable adult and placing the child on probation.

(2) A child-placing agency or other suitable private agency or facility which is licensed or otherwise authorized by law to receive and provide care for children and placing the child on probation or other supervision.

(3) The department of human services for purposes of foster care and prescribing the type of placement which will serve the best interests of the child and the means by which the placement shall be monitored by the court. The court shall consider ordering placement in family foster care as an alternative to group foster care.

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

seventy-two hours of placement, subject to a hearing before the court on the placement within ten days.

e. 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 124.401 or chapter 707, or the court finds any three of the following conditions exist:

(1) The child is at least fifteen years of age and the court finds the placement to be in the best interests of the child or necessary to the protection of the public.

(2) The child has committed an act which is a crime against a person and which would be an aggravated misdemeanor or a felony if the act were committed by an adult.

(3) The child has previously been found to have committed a delinquent act.

(4) The child has previously been placed in a treatment facility outside the child's home or in a supervised community treatment program established pursuant to section 232.191, subsection 4, as a result of a prior delinquency adjudication.

f. An order committing the child to a mental health institute or other appropriate facility for the purpose of treatment of a mental or emotional condition after making findings pursuant to the standards set out for involuntary commitment in chapter 229.

g. An order placing a child, other than a child who has committed a violation of section 123.47, in secure custody for not more than two days in a facility under section 232.22, subsection 3, paragraph *"a"* or *"b"*.

h. In the case of a child adjudicated delinquent for an act which would be a violation of chapter 236 or section 708.2A if committed by an adult, an order requiring the child to attend a batterers' treatment program under section 708.2B.

3. *a.* An order under subsection 2, paragraph *"a"*, may be the sole disposition or may be included as an element in other dispositional orders.

b. A parent or guardian may be required by the juvenile court to participate in educational or treatment programs as part of a probation plan. A parent or guardian who does not participate in the probation plan when required to do so by the court may be held in contempt.

c. Notwithstanding subsection 2, the court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

4. When the court enters an order placing a child on probation pursuant to this section, the court may in cases of change of residency transfer jurisdiction of the child to the juvenile court of the county where the child's residence is established. The court to which the jurisdiction of the child is transferred shall have the same powers with respect to the child as if the petition had originally been filed in that court.

5. When the court enters an order transferring the legal and physical custody of a child to an agency, facility, department, or institution, the court shall transmit its order, its finding, and a summary of its information concerning the child to such agency, facility, department, or institution.

6. If the court orders the transfer of custody of the child to the department of human services or other agency for placement, the department or agency responsible for the placement of the child shall submit a case permanency plan to the court and shall make every effort to return the child to the child's home as quickly as possible.

7. *a.* When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph *"d"*, *"e"*, or *"f"*, the order shall state that reasonable efforts as defined in section 232.57 have been made. If deemed appropriate by the court, the order may include a determination that continuation of the child in the child's home is contrary to the child's welfare. 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 be used to assist the department in

obtaining federal funding for the child's placement. If such a determination is included in the order, unless the court makes a determination that further reasonable efforts are not required, reasonable efforts shall be made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family. The reasonable efforts may include but are not limited to early intervention and follow-up programs implemented pursuant to section 232.191.

b. 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 adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the transfer order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

8. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in group foster care, the department or agency shall make every reasonable effort to place the child in the least restrictive, most family-like, and most appropriate setting available and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

9. If a child has previously been adjudicated as a child in need of assistance, and a social worker or other caseworker from the department of human services has been assigned to work on the child's case, the court may order the department of human services to assign the same social worker or caseworker to work on any matters related to the child arising under this division.

10. *a.* Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the state training school pursuant to subsection 2, paragraph "*e*", to a facility which has been designated to be an alternative placement site for the state training school, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a substitute dispositional order under section 232.54.

(2) Immediate removal of the child from the state training school is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "*a*" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 8.12, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a substitute dispositional order under section 232.54 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

11. The court shall order a juvenile adjudicated a delinquent for an offense that requires

DNA profiling under section 81.2 to submit a DNA sample for DNA profiling pursuant to section 81.4.

[C73, §1653 – 1659; C97, §2708, 2709; S13, §254-a23, 2708; C24, 27, 31, 35, 39, §**3637, 3646, 3647, 3652;** C46, 50, 54, 58, 62, §232.27, 232.28, 232.34; C66, 71, 73, 75, 77, §232.34, 232.38, 232.39; C79, 81, §232.52; 82 Acts, ch 1260, §22]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §5; 85 Acts, ch 124, §1; 88 Acts, ch 1249, §12, 13; 90 Acts, ch 1168, §35; 90 Acts, ch 1239, §7, 8; 90 Acts, ch 1271, §1505; 91 Acts, ch 232, §5, 6; 91 Acts, ch 258, §37; 92 Acts, ch 1229, §3; 92 Acts, ch 1231, §20, 21; 94 Acts, ch 1172, §21, 22; 95 Acts, ch 180, §6; 95 Acts, ch 191, §13, 14; 96 Acts, ch 1134, §2; 96 Acts, ch 1218, §57; 97 Acts, ch 51, §1; 97 Acts, ch 99, §2; 97 Acts, ch 126, §26, 27; 97 Acts, ch 208, §40; 98 Acts, ch 1073, §9; 99 Acts, ch 208, §35; 2001 Acts, ch 24, §39; 2001 Acts, ch 135, §7; 2002 Acts, ch 1081, §2; 2003 Acts, ch 117, §4; 2004 Acts, ch 1116, §4, 5; 2005 Acts, ch 158, §12, 19; 2007 Acts, ch 218, §113; 2009 Acts, ch 41, §236; 2009 Acts, ch 133, §220, 221

Referred to in §92.17, 232.22, 232.50, 232.53, 232.54, 232.58, 232.133, 234.35, 321.213, 321.213A, 321.215, 321A.17, 692A.103, 907.3A, 915.28

[P] Juvenile victim restitution, see chapter 232A and §915.24 – 915.29

232.52A Disposition of certain juvenile offenders.

1. In addition to any other order of the juvenile court, a person under age eighteen, who may be in need of treatment as determined under section 232.8, may be ordered to participate in an alcohol or controlled substance education or evaluation program approved by the juvenile court. If recommended after evaluation, the court may also order the person to participate in a treatment program approved by the court. The juvenile court may also require the custodial parent or parents or other legal guardian to participate in an educational program with the person under age eighteen if the court determines that such participation is in the best interests of the person under age eighteen.

2. If the duration of a dispositional order is extended pursuant to section 232.53, subsection 3, the court may continue or extend supervision by an electronic tracking and monitoring system in addition to any other conditions of supervision.

90 Acts, ch 1251, §26; 2009 Acts, ch 119, §35

Referred to in §232.8

232.53 Duration of dispositional orders.

1. Any dispositional order entered by the court pursuant to section 232.52 shall remain in force for an indeterminate period or until the child becomes eighteen years of age unless otherwise specified by the court or unless sooner terminated pursuant to the provisions of section 232.54. No dispositional order made under section 232.52, subsection 2, paragraph "*e*", shall remain in force longer than the maximum possible duration of the sentence which may be imposed on an adult for the commission of the act which the child has been found by the court to have committed.

2. All dispositional orders entered prior to the child attaining the age of seventeen years shall automatically terminate when the child becomes eighteen years of age, except as provided in subsection 3. Dispositional orders entered subsequent to the child attaining the age of seventeen years and prior to the child's eighteenth birthday shall automatically terminate one year and six months after the date of disposition. 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 and six months after the last date upon which jurisdiction could attach.

3. A dispositional order entered prior to the child attaining the age of seventeen, for a child required to register as a sex offender pursuant to the provisions of chapter 692A, may be extended one year and six months beyond the date the child becomes eighteen years of age.

4. Notwithstanding section 233A.13, a child committed to the training school subsequent to the child attaining the age of seventeen years and prior to the child's eighteenth birthday may be held at the school beyond the child's eighteenth birthday pursuant to subsection 2 or 3, provided that the training school makes application to and receives permission from the committing court. This extension shall be for the purpose of completion by the child of a course of instruction established for the child pursuant to section 233A.4 and cannot extend

for more than one year and six months beyond the date of disposition unless the duration of the dispositional order was extended pursuant to subsection 3.

5. *a.* Any person supervising but not having custody of the child pursuant to such an order shall file a written report with the court at least every six months concerning the status and progress of the child.

b. Any agency, facility, institution, or person to whom custody of the child has been transferred pursuant to such order shall file a written report with the court at least every six months concerning the status and progress of the child.

c. Any report prepared pursuant to this subsection shall be included in the record considered by the court in a permanency hearing conducted pursuant to section 232.58.

[C73, §1653 – 1658; C97, §2708; S13, §254-a23, 2708; C24, 27, 31, 35, 39, §**3639, 3649;** C46, 50, 54, 58, 62, §232.23, 232.30; C66, 71, 73, 75, §232.36, 232.37; C79, 81, §232.53; 82 Acts, ch 1209, §12]

84 Acts, ch 1166, §1; 2000 Acts, ch 1056, §2; 2001 Acts, ch 135, §8; 2009 Acts, ch 119, §34, 36
Referred to in §232.52A

232.54 Termination, modification, or vacation and substitution of dispositional order.

1. At any time prior to its expiration, a dispositional order may be terminated, modified, or vacated and another dispositional order substituted therefor only in accordance with the following provisions:

a. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "*a*", "*b*", or "*c*", and upon the motion of a child, a child's parent or guardian, a child's guardian ad litem, a person supervising the child under a dispositional order, a county attorney, or upon its own motion, the court may terminate the order and discharge the child, modify the order, or vacate the order and substitute another order pursuant to the provisions of section 232.52. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

b. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs "*d*" and "*e*", the court shall grant a motion of the person to whom custody has been transferred for termination of the order and discharge of the child, for modification of the order by imposition of less restrictive conditions, or for vacation of the order and substitution of a less restrictive order unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. 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.

c. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "*d*", or "*e*", or "*f*", the court shall grant a motion of a person or agency to whom custody has been transferred for modification of the order by transfer to an equally restrictive placement, unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. 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.

d. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "*d*", "*e*", or "*f*", the court may, after notice and hearing, either grant or deny a motion of the child, the child's parent or guardian, or the child's guardian ad litem, to terminate the order and discharge the child, to modify the order either by imposing less restrictive conditions or by transfer to an equally or less restrictive placement, or to vacate the order and substitute a less restrictive order. A motion may be made pursuant to this paragraph no more than once every six months.

e. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs "*d*" and "*e*", the court may, after notice and a hearing at which there is presented clear and convincing evidence to support such an action, either grant or deny a motion by a county attorney or by a person or agency to whom custody has been transferred, to modify an order by imposing more restrictive conditions or to vacate the order and substitute a more restrictive order.

f. With respect to a temporary transfer order made pursuant to section 232.52, subsection 10, if the court finds that removal of a child from the state training school is necessary to safeguard the child's physical or emotional health and is in the best interests of the child, the

court shall grant the director's motion for a substitute dispositional order to place the child in a facility which has been designated to be an alternative placement site for the state training school.

g. With respect to a juvenile court dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the dispositional order may be terminated prior to the child reaching the age of eighteen upon motion of the child, the person or agency to whom custody of the child has been transferred, or the county attorney following a hearing before the juvenile court if it is shown by clear and convincing evidence that it is in the best interests of the child and the community to terminate the order. The hearing may be waived if all parties to the proceeding agree. The dispositional order regarding a child who has received a youthful offender deferred sentence may also be terminated prior to the child reaching the age of eighteen upon motion of the county attorney, if the waiver of the child to district court was conditioned upon the terms of an agreement between the county attorney and the child, and the child violates the terms of the agreement after the waiver order has been entered. The district court shall discharge the child's youthful offender status upon receiving a termination order under this section.

h. With respect to a dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the juvenile court may, in the case of a child who violates the terms of the order, modify or terminate the order in accordance with the following:

(1) After notice and hearing at which the facts of the child's violation of the terms of the order are found, the juvenile court may refuse to modify the order, modify the order and impose a more restrictive order, or, after an assessment of the child by a juvenile court officer in consultation with the judicial district department of correctional services and if the child is age fourteen or over, terminate the order and return the child to the supervision of the district court under chapter 907.

(2) The juvenile court shall only terminate an order under this paragraph *"h"* if after considering the best interests of the child and the best interests of the community the court finds that the child should be returned to the supervision of the district court.

(3) A youthful offender over whom the juvenile court has terminated the dispositional order under this paragraph *"h"* shall be treated in the manner of an adult who has been arrested for a violation of probation under section 908.11 for sentencing purposes only.

i. With respect to a dispositional order requiring a child to register as a sex offender pursuant to chapter 692A, the juvenile court shall determine whether the child shall remain on the sex offender registry prior to termination of the dispositional order.

2. Notice requirements of this section shall be satisfied by providing reasonable notice to the persons required to be provided notice for adjudicatory hearings under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. At a hearing under this section all relevant and material evidence shall be admitted.

[C79, 81, §232.54]

90 Acts, ch 1239, §9; 95 Acts, ch 92, §2; 97 Acts, ch 126, §28; 98 Acts, ch 1100, §25; 2001 Acts, ch 135, §27; 2009 Acts, ch 41, §237; 2009 Acts, ch 119, §37

Referred to in §232.2, 232.9, 232.11, 232.22, 232.52, 232.53, 692A.106, 907.3A

232.55 Effect of adjudication and disposition.

1. An adjudication or disposition in a proceeding under this division shall not be deemed a conviction of a crime and shall not impose any civil disabilities or operate to disqualify the child in any civil service application or appointment.

2. *a.* Adjudication and disposition proceedings under this division are not admissible as evidence against a person in a subsequent proceeding in any other court before or after the person reaches majority except in a sentencing proceeding after conviction of the person for an offense other than a simple or serious misdemeanor.

b. Adjudication and disposition proceedings may properly be included in a presentence investigation report prepared pursuant to chapter 901 and section 906.5.

c. However, the use of adjudication and disposition proceedings pursuant to this subsection shall be subject to the restrictions contained in section 232.150.

3. This section does not apply to dispositional orders entered regarding a child who has received a youthful offender deferred sentence under section 907.3A who is not discharged from probation before or upon the child's eighteenth birthday.

[C79, 81, §232.55]

85 Acts, ch 179, §1; 97 Acts, ch 126, §29; 2009 Acts, ch 41, §238

Referred to in §321.213

232.56 Youthful offenders — transfer to district court supervision.

The juvenile court shall deliver a report, which includes an assessment of the child by a juvenile court officer after consulting with the judicial district department of correctional services, to the district court prior to the eighteenth birthday of a child who has received a youthful offender deferred sentence under section 907.3A. A hearing shall be held in the district court in accordance with section 907.3A to determine whether the child should be discharged from youthful offender status or whether the child shall continue under the supervision of the district court after the child's eighteenth birthday.

97 Acts, ch 126, §30

232.57 Reasonable efforts defined — effect of aggravated circumstances.

1. For the purposes of this division, unless the context otherwise requires, *"reasonable efforts"* means the efforts made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family. Reasonable efforts shall include but are not limited to giving consideration, if appropriate, to interstate placement of a child in the permanency planning decisions involving the child and giving consideration to in-state and out-of-state placement options at a permanency hearing and when using concurrent planning. If a court order includes a determination that continuation of the child in the child's home is not appropriate or not possible, reasonable efforts may include the efforts made in a timely manner to finalize a permanency plan for the child.

2. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

a. The parent has abandoned the child.

b. The court finds the circumstances described in section 232.116, subsection 1, paragraph "*i*", are applicable to the child.

c. The parent's parental rights have been terminated under section 232.116 with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.

d. The parent has been convicted of the murder of another child of the parent.

e. The parent has been convicted of the voluntary manslaughter of another child of the parent.

f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

3. Any order entered under this division may include findings regarding reasonable efforts.

2001 Acts, ch 135, §9; 2007 Acts, ch 172, §4

Referred to in §232.21, 232.22, 232.52, 232B.5

232.58 Permanency hearings.

1. If an order entered pursuant to this division for an out-of-home placement of a child includes a determination that continuation of the child in the child's home is contrary to the child's welfare, the court shall review the child's continued placement by holding a

permanency hearing or hearings in accordance with this section. The initial permanency hearing shall be the earlier of the following:

a. For an order for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

b. For an order in a case in which aggravated circumstances exist for which the court has waived reasonable efforts requirements, the permanency hearing shall be held within thirty days of the date the requirements were waived.

2. Reasonable notice shall be provided of a permanency hearing for an out-of-home placement in which the court order has included a determination that continuation of the child in the child's home is contrary to the child's welfare. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any case permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings identifying a primary permanency goal for the child. If a case permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and in complying with the other provisions of that case permanency plan.

3. After a permanency hearing, the court shall do one of the following:

a. Enter an order pursuant to section 232.52 to return the child to the child's home.

b. Enter an order pursuant to section 232.52 to continue the out-of-home placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings based upon the existence of the evidence required by subsection 4, to do one of the following:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "*d*" would not be in the child's best interest, order another planned permanent living arrangement for the child.

4. Prior to entering a permanency order pursuant to subsection 3, paragraph "*d*", clear and convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

5. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

6. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "*d*", "*e*", or "*f*", for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.

7. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence that returning the child to such custody would be in the best interest of the child.

8. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of a planned permanent living arrangement, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

2001 Acts, ch 135, §10; 2007 Acts, ch 67, §3; 2007 Acts, ch 172, §5
Referred to in §232.53

232.59 and 232.60 Reserved.

DIVISION III

CHILD IN NEED OF ASSISTANCE PROCEEDINGS

Referred to in §232.109, 600A.5

PART 1

GENERAL PROVISIONS

232.61 Jurisdiction.

1. The juvenile court shall have exclusive jurisdiction over proceedings under this chapter alleging that a child is a child in need of assistance.

2. In determining such jurisdiction the age and marital status of the child at the time the proceedings are initiated is controlling.

[C71, 73, 75, 77, §232.63; C79, 81, §232.61]

232.62 Venue.

1. Venue for child in need of assistance proceedings shall be in the judicial district where the child is found or in the judicial district of the child's residence.

2. The court may transfer any child in need of assistance proceedings brought under this chapter to the juvenile court of any county having venue at any stage in the proceedings as follows:

a. When it appears that the best interests of the child 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 child's residence.

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

3. 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.

[C71, 73, 75, 77, §232.68 – 232.70; C79, 81, §232.62]
Referred to in §232.110, 232.123, 232.177

232.63 through 232.66 Reserved.

PART 2

CHILD ABUSE REPORTING, ASSESSMENT, AND REHABILITATION

Referred to in §135L.3, 235A.13

232.67 Legislative findings — purpose and policy.

Children in this state are in urgent need of protection from abuse. It is the purpose and policy of this part 2 of division III to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of abuse, ensuring the thorough and prompt assessment of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain intact without further danger to the child.

[C66, 71, 73, 75, 77, §235A.1; C79, 81, §232.67]

97 Acts, ch 35, §3, 25

Referred to in §232.68

232.68 Definitions.

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through 235A.24, unless the context otherwise requires:

1. *"Child"* means any person under the age of eighteen years.

2. *a.* *"Child abuse"* or *"abuse"* means:

(1) Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.

(2) Any mental injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

(3) The commission of a sexual offense with or to a child pursuant to chapter 709, section 726.2, or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child. Notwithstanding section 702.5, the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.

(4) (a) The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so.

(b) For the purposes of subparagraph division (a), failure to provide for the adequate supervision of a child means the person failed to provide proper supervision of a child that a reasonable and prudent person would exercise under similar facts and circumstances and the failure resulted in direct harm or created a risk of harm to the child.

(c) A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.

(5) The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1. Notwithstanding section 702.5, acts or omissions under this subparagraph include an act or omission referred to in this subparagraph with or to a person under the age of eighteen years.

(6) An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.

(7) The person responsible for the care of a child has, in the presence of the child, as

defined in section 232.2, subsection 6, paragraph *"p"*, manufactured a dangerous substance, as defined in section 232.2, subsection 6, paragraph *"p"*, or in the presence of the child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(8) The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

(9) Knowingly allowing a person custody or control of, or unsupervised access to a child or minor, after knowing the person is required to register or is on the sex offender registry under chapter 692A for a violation of section 726.6.

(10) The person responsible for the care of the child has knowingly allowed the child access to obscene material as defined in section 728.1 or has knowingly disseminated or exhibited such material to the child.

b. *"Child abuse"* or *"abuse"* shall not be construed to hold a victim responsible for failing to prevent a crime against the victim.

2A. *"Child protection worker"* means an individual designated by the department to perform an assessment in response to a report of child abuse.

3. *"Confidential access to a child"* means access to a child, during an assessment of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection and this part:

a. *"Interview"* means the verbal exchange between the child protection worker and the child for the purpose of developing information necessary to protect the child. A child protection worker is not precluded from recording visible evidence of abuse.

b. *"Observation"* means direct physical viewing of a child under the age of four by the child protection worker where the viewing is limited to the child's body other than the genitalia and pubes. *"Observation"* also means direct physical viewing of a child aged four or older by the child protection worker without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A child protection worker is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the child protection worker. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, *"observation"* may include viewing the child's unclothed body other than the genitalia and pubes.

c. *"Physical examination"* means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148.

4. *"Department"* means the state department of human services and includes the local, county, and service area offices of the department.

5. *"Health practitioner"* includes a licensed physician and surgeon, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under section 147A.6.

6. *"Mental health professional"* means a person who meets the following requirements:

a. Holds at least a master's degree in a mental health field, including but not limited to psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

7. *"Person responsible for the care of a child"* means:

a. A parent, guardian, or foster parent.

b. A relative or any other person with whom the child resides and who assumes care

or supervision of the child, without reference to the length of time or continuity of such residence.

c. An employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.

d. Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care.

8. *"Registry"* means the central registry for child abuse information established in section 235A.14.

[C66, 71, 73, 75, 77, §235A.2; C79, 81, §232.68]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1207, §1, 2; 85 Acts, ch 173, §2; 86 Acts, ch 1177, §1; 87 Acts, ch 153, §1, 2; 89 Acts, ch 24, §1; 89 Acts, ch 89, §16; 89 Acts, ch 230, §3, 4; 93 Acts, ch 76, §1; 93 Acts, ch 93, §2; 94 Acts, ch 1130, §1, 2; 95 Acts, ch 41, §24; 95 Acts, ch 108, §17; 95 Acts, ch 182, §7; 96 Acts, ch 1092, §2; 97 Acts, ch 35, §4, 5, 25; 97 Acts, ch 176, §1; 2001 Acts, ch 46, §2; 2001 Acts, ch 131, §1; 2003 Acts, ch 44, §49; 2004 Acts, ch 1116, §6; 2005 Acts, ch 158, §20; 2008 Acts, ch 1088, §113 – 115; 2009 Acts, ch 119, §64; 2010 Acts, ch 1151, §2; 2011 Acts, ch 28, §1, 2

Referred to in §20.31, 135.119, 135L.3, 232.2, 232.69, 232.70, 232.71B, 232.71D, 232.76, 235A.18, 235B.3, 280.17, 915.35, 915.84

232.69 Mandatory and permissive reporters — training required.

1. The classes of persons enumerated in this subsection shall make a report within twenty-four hours and as provided in section 232.70, of cases of child abuse. In addition, the classes of persons enumerated in this subsection shall make a report of abuse of a child who is under twelve years of age and may make a report of abuse of a child who is twelve years of age or older, which would be defined as child abuse under section 232.68, subsection 2, paragraph *"a"*, subparagraph (3) or (5), except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section 139A.30, this provision applies to a health practitioner who receives information confirming that a child is infected with a sexually transmitted disease.

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

(1) A social worker.

(2) An employee or operator of a public or private health care facility as defined in section 135C.1.

(3) A certified psychologist.

(4) A licensed school employee, certified para-educator, holder of a coaching authorization issued under section 272.31, or an instructor employed by a community college.

(5) An employee or operator of a licensed child care center, registered child development home, head start program, family development and self-sufficiency grant program under section 216A.107, or healthy opportunities for parents to experience success – healthy families Iowa program under section 135.106.

(6) An employee or operator of a substance abuse program or facility licensed under chapter 125.

(7) An employee of a department of human services institution listed in section 218.1.

(8) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.

(9) An employee or operator of a foster care facility licensed or approved under chapter 237.

(10) An employee or operator of a mental health center.

(11) A peace officer.

(12) A counselor or mental health professional.

(13) An employee or operator of a provider of services to children funded under a federally approved medical assistance home and community-based services waiver.

2. Any other person who believes that a child has been abused may make a report as provided in section 232.70.

3. *a.* For the purposes of this subsection, *"licensing board"* means a board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

b. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within six months of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every five years.

c. If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the child abuse identification and reporting training. If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the child abuse identification and reporting training as provided in paragraph *"d"*.

d. The person may complete the initial or additional training requirements as part of any of the following that are applicable to the person:

(1) A continuing education program required under chapter 272C and approved by the appropriate licensing board.

(2) A training program using a curriculum approved by the abuse education review panel established by the director of public health pursuant to section 135.11.

(3) A training program using such an approved curriculum offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.

e. A licensing board with authority over the license of a person required to make a report under subsection 1 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering child abuse in this state.

f. For persons required to make a report under subsection 1 who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

g. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

h. For persons required to make a report under subsection 1 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

[C66, 71, 73, 75, 77, §235A.3; C79, 81, §232.69]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §4, 6; 85 Acts, ch 173, §3 – 5; 87 Acts, ch 153, §3; 88 Acts, ch 1238, §1; 89 Acts, ch 89, §17; 89 Acts, ch 230, §5; 89 Acts, ch 265, §40; 94 Acts, ch

1130, §3; 97 Acts, ch 85, §1; 99 Acts, ch 192, §27, 33; 2000 Acts, ch 1066, §42; 2001 Acts, ch 122, §2, 3; 2002 Acts, ch 1047, §2, 20; 2002 Acts, ch 1142, §1, 31; 2005 Acts, ch 121, §2; 2007 Acts, ch 10, §164, 165; 2008 Acts, ch 1072, §3

Referred to in §135H.13, 232.68, 232.70, 232.75, 232.77, 235B.16, 237.9, 237A.5, 907.3, 915.35

232.70 Reporting procedure.

1. Each report made by a mandatory reporter, as defined in section 232.69, subsection 1, shall be made both orally and in writing. Each report made by a permissive reporter, as defined in section 232.69, subsection 2, may be oral, written, or both.

2. The employer or supervisor of a person who is a mandatory or permissive reporter shall not apply a policy, work rule, or other requirement that interferes with the person making a report of child abuse.

3. The oral report shall be made by telephone or otherwise to the department of human services. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

4. The written report shall be made to the department of human services within forty-eight hours after such oral report.

5. Upon receipt of a report the department shall do all of the following:

a. Immediately, upon receipt of an oral report, make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68.

b. Notify the appropriate county attorney of the receipt of the report.

6. The oral and written reports shall contain the following information, or as much thereof as the person making the report is able to furnish:

a. The names and home address of the child and the child's parents or other persons believed to be responsible for the child's care;

b. The child's present whereabouts if not the same as the parent's or other person's home address;

c. The child's age;

d. The nature and extent of the child's injuries, including any evidence of previous injuries;

e. The name, age and condition of other children in the same home;

f. Any other information which the person making the report believes might be helpful in establishing the cause of the injury to the child, the identity of the person or persons responsible for the injury, or in providing assistance to the child; and

g. The name and address of the person making the report.

7. A report made by a permissive reporter, as defined in section 232.69, subsection 2, shall be regarded as a report pursuant to this chapter whether or not the report contains all of the information required by this section and may be made to the department of human services, county attorney, or law enforcement agency. If the report is made to any agency other than the department of human services, such agency shall promptly refer the report to the department of human services.

8. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "*a*", subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

9. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.

[C66, 71, 73, 75, 77, §235A.4; C79, 81, §232.70]

83 Acts, ch 96, §157, 159; 87 Acts, ch 153, §4; 97 Acts, ch 176, §2, 17; 2000 Acts, ch 1137, §4, 14; 2001 Acts, ch 122, §4

Referred to in §232.68, 232.69, 232.75

232.71 and 232.71A Repealed by 97 Acts, ch 35, § 24, 25.

232.71B Duties of the department upon receipt of report.

1. *Commencement of assessment — purpose.*

a. If the department determines a report constitutes a child abuse allegation, the department shall promptly commence an appropriate assessment within twenty-four hours of receiving the report.

b. The primary purpose of the assessment shall be the protection of the child named in the report. The secondary purpose of the assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

2. *Notification of parents.* The department, within five working days of commencing the assessment, shall provide written notification of the assessment to the child's parents. If a parent is alleged to have committed the child abuse, the notice shall inform the parents regarding the complaint or allegation made regarding the parent. The parents shall be informed in a manner that protects the confidentiality rights of an individual who reported the child abuse or provided information as part of the assessment process. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. The department shall not reveal in the written notification to the parents or otherwise the identity of the reporter of child abuse to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph "*a*".

3. *Involvement of law enforcement.* The department shall apply protocols, developed with the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to child abuse reports and to work jointly with child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse reports in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child. If a report is determined not to constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

4. *Assessment process.* The assessment is subject to all of the following:

a. Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

b. Identification of the person or persons responsible for the alleged child abuse.

c. A description of the name, age, and condition of other children in the same home as the child named in the report.

d. An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known. The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The person shall be informed of the complaint or allegation made regarding the person. The person shall be informed in a manner that protects the confidentiality rights of the individual who reported the child abuse or provided information as part of the assessment process. The purpose of the interview shall be to provide the person with the opportunity to explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The court may waive the requirement to offer the interview only for good cause. The person offered an interview, or the person's attorney on the person's behalf, may decline the offer of an interview of the person.

f. Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

5. *Home visit.* The assessment may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the assessment to enter the home and interview or observe the child.

6. *Facility or school visit.* The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "*b*". A witness shall be present during an observation of a child. Any child aged ten years of age or older can terminate contact with the child protection worker by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

7. *Information requests.*

a. The department may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the assessment upon the request of the department.

b. In performing an assessment, the department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check is necessary.

8. *Protective disclosure.* If the department determines that disclosure is necessary for the protection of a child, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph "*a*", that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

9. *Physical examination.* If the department refers a child to a physician for a physical examination, the department shall contact the physician regarding the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the examination.

10. *Multidisciplinary team.* In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 8. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

11. *Facility protocol.*

a. The department shall apply a protocol, developed in consultation with facilities providing care to children, for conducting an assessment of reports of abuse of children allegedly caused by employees of facilities providing care to children. As part of such an assessment, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:

(1) A violation of facility policy noted in the assessment.

(2) An instance in which facility policy or lack of facility policy may have contributed to the reported incident of alleged child abuse.

(3) An instance in which general practice in the facility appears to differ from the facility's written policy.

b. The licensing authority, the governing body, and the administrator in charge of the

facility shall take any lawful action which may be necessary or advisable to protect children receiving care.

12. *Assessment report.* The department, upon completion of the assessment, shall make a written report of the assessment, in accordance with all of the following:

a. The written assessment shall incorporate the information required by subsection 4.

b. The written assessment shall be completed within twenty business days of the receipt of the report.

c. The written assessment shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.

d. The written assessment shall identify the strengths and needs of the child, and of the child's parent, home, and family.

e. The written assessment shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.

f. Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

g. The department shall notify each subject of the child abuse report, as identified in section 235A.15, subsection 2, paragraph *"a"*, of the results of the assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.

h. If after completing the assessment process the child protection worker determines, with the concurrence of the worker's supervisor and the department's area administrator, that a report is a spurious report or that protective concerns are not present, the portions of the assessment report described under paragraphs *"d"* and *"e"* shall not be required.

13. *Court-ordered and voluntary services.* The department shall provide or arrange for and monitor services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court.

14. *County attorney — juvenile court.* The department shall provide the juvenile court and the county attorney with a copy of the portion of the written assessment pertaining to the child abuse report. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

15. *False reports.* If a fourth report is received from the same person who made three earlier reports which identified the same child as a victim of child abuse and the same person responsible for the care of the child as the alleged abuser and which were determined by the department to be entirely false or without merit, the department may determine that the report is again false or without merit due to the report's spurious or frivolous nature and may in its discretion terminate its assessment of the report. If the department receives more than three reports which identify the same child as a victim of child abuse or the same person as the alleged abuser of a child, or which were made by the same person, and the department determined the reports to be entirely false or without merit, the department shall provide information concerning the reports to the county attorney for consideration of criminal charges under section 232.75, subsection 3.

97 Acts, ch 35, §6, 25; 97 Acts, ch 176, §24, 43; 2001 Acts, ch 122, §5; 2002 Acts, ch 1074, §1; 2003 Acts, ch 44, §50; 2003 Acts, ch 47, §1; 2003 Acts, ch 107, §1; 2003 Acts, ch 123, §1; 2003 Acts, ch 179, §68; 2004 Acts, ch 1152, §1, 2; 2009 Acts, ch 41, §239

Referred to in §135.43, 232.68, 232.71C, 232.71D, 232.72, 232.73, 232.73A, 232.77, 232.78, 235A.15, 235A.19, 331.653, 915.35

232.71C Court action following child abuse assessment — guardian ad litem.

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall

act appropriately to initiate the action. The county attorney shall assist the department as provided under section 232.90, subsection 2.

2. The department shall assist the juvenile court or district court during all stages of court proceedings involving an alleged child abuse case in accordance with the purposes of this chapter.

3. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in the proceedings. Before a guardian ad litem is appointed pursuant to this section, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the county treasury.

97 Acts, ch 35, §7, 25

Referred to in §232.68, 331.424

232.71D Founded child abuse — central registry.

1. The requirements of this section shall apply to child abuse information relating to a report of child abuse and to an assessment performed in accordance with section 232.71B.

2. Except as otherwise provided in subsections 3 and 4, and section 235A.19, subsection 3, if the department issues a finding that the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall be placed in the central registry as a case of founded child abuse.

3. *a.* Unless any of the circumstances listed in paragraph *"b"* are applicable, cases to which any of the following circumstances apply shall not be placed in the central registry:

(1) A finding of physical abuse in which the department has determined the injury resulting from the abuse was minor, isolated, and unlikely to reoccur.

(2) A finding of abuse by failure to provide adequate supervision or by failure to provide adequate clothing, in which the department has determined the risk from the abuse to the child's health and welfare was minor, isolated, and unlikely to reoccur.

b. If any of the following circumstances apply in addition to those listed in paragraph *"a"*, the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall be placed in the central registry as a case of founded child abuse:

(1) The case was referred for juvenile or criminal court action as a result of the acts or omissions of the alleged perpetrator or a criminal or juvenile court action was initiated by the county attorney or juvenile court within twelve months of the date of the department's report concerning the case, in which the alleged perpetrator was convicted of a crime involving the child or there was a delinquency or child in need of assistance adjudication.

(2) The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the eighteen-month period preceding the issuance of the department's report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

(3) The department determines the alleged perpetrator of the child abuse will continue to pose a danger to the child who is the subject of the report of child abuse or to another child with whom the alleged perpetrator may come into contact.

4. Cases of alleged child abuse to which any of the following circumstances apply shall be placed in the central registry as follows:

a. A finding of sexual abuse in which the alleged perpetrator of the abuse is age thirteen or younger. However, the name of the alleged perpetrator shall be withheld from the registry.

b. A finding of sexual abuse in which the alleged perpetrator of the abuse is age fourteen through seventeen and the court has found there is good cause for the name of the alleged perpetrator to be removed from the central registry. Only the name of the alleged perpetrator shall be removed from the registry.

5. If report data and disposition data are placed in the central registry in accordance with this section, the department shall make periodic follow-up reports in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the case.

6. *a.* The confidentiality of all of the following shall be maintained in accordance with section 217.30:

(1) Assessment data.

(2) Information pertaining to an allegation of child abuse for which there was no assessment performed.

(3) Information pertaining to an allegation of child abuse which was determined to not meet the definition of child abuse. Individuals identified in section 235A.15, subsection 4, are authorized to have access to such information under section 217.30.

(4) Report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is not subject to placement in the central registry. Individuals identified in section 235A.15, subsection 3, are authorized to have access to such data under section 217.30.

b. The confidentiality of report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is subject to placement in the central registry, shall be maintained as provided in chapter 235A.

97 Acts, ch 176, §5, 25, 26, 43; 99 Acts, ch 192, §33; 2004 Acts, ch 1086, §43; 2005 Acts, ch 121, §3; 2011 Acts, ch 28, §3, 4; 2011 Acts, ch 131, §57, 158; 2012 Acts, ch 1082, §1

Referred to in §232.68, 235A.14, 235A.15, 235A.17, 235A.18, 235A.19, 237A.5

[T] Subsection 2 amended

232.72 Jurisdiction — transfer.

1. For the purposes of this division, the terms *"department of human services"*, *"department"*, or *"county attorney"* ordinarily refer to the service area or local office of the department of human services or of the county attorney's office serving the county in which the child's home is located.

2. However, if the person making a report of child abuse pursuant to this chapter does not know where the child's home is located, or if the child's home is not located in the service area where the health practitioner examines, attends, or treats the child, the report may be made to the department or to the local office serving the county where the person making the report resides or the county where the health practitioner examines, attends, or treats the child. These agencies shall promptly proceed as provided in section 232.71B, unless the matter is transferred as provided in this section.

3. If the child's home is located in a county not served by the office receiving the report, the department shall promptly transfer the matter by transmitting a copy of the report of injury and any other pertinent information to the office and the county attorney serving the other county. They shall promptly proceed as provided in section 232.71B.

[C66, 71, 73, 75, 77, §235A.6; C79, 81, §232.72]

83 Acts, ch 96, §157, 159; 97 Acts, ch 35, §8, 25; 2004 Acts, ch 1116, §7

Referred to in §232.68

232.73 Medically relevant tests — immunity from liability.

1. A person participating in good faith in the making of a report, photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

2. As used in this section and in sections 232.73A, 232.77, and 232.78, *"medically relevant test"* means a test that produces reliable results of exposure to cocaine, heroin, amphetamine,

methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

[C66, 71, 73, 75, 77, §235A.7; C79, 81, §232.73]

83 Acts, ch 88, §1; 90 Acts, ch 1264, §28; 95 Acts, ch 182, §8; 96 Acts, ch 1092, §3; 97 Acts, ch 35, §9, 25; 2001 Acts, ch 135, §11; 2012 Acts, ch 1040, §1

Referred to in §232.2, 232.68, 232.71B, 232.77, 232.106

[T] Unnumbered paragraphs 1 and 2 editorially designated as subsections 1 and 2

[T] Subsection 2 amended

232.73A Retaliation prohibited — remedy.

1. *a.* An employer shall not take retaliatory action against an employee as a reprisal for the employee's participation in good faith in making a report, photograph, or X ray, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B. This section does not apply to a disclosure of information that is prohibited by statute.

b. For purposes of this section, "*retaliatory action*" includes but is not limited to an employer's action to discharge an employee or to take or fail to take action regarding an employee's appointment or proposed appointment to, to take or fail to take action regarding an employee's promotion or proposed promotion to, or to fail to provide an advantage in a position in employment.

2. Subsection 1 may be enforced through a civil action.

a. A person who violates subsection 1 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 1, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the county attorney.

2012 Acts, ch 1040, §2

Referred to in §232.68, 232.73

[T] NEW section

232.74 Evidence not privileged or excluded.

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

[C66, 71, 73, 75, 77, §235A.8; C79, 81, §232.74]

83 Acts, ch 37, §1; 87 Acts, ch 153, §6

Referred to in §228.6, 232.68

232.75 Sanctions.

1. Any person, official, agency, or institution required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor.

2. Any person, official, agency, or institution required by section 232.69 to report a suspected case of child abuse who knowingly fails to do so or who knowingly interferes with the making of such a report in violation of section 232.70 is civilly liable for the damages proximately caused by such failure or interference.

3. A person who reports or causes to be reported to the department of human services false information regarding an alleged act of child abuse, knowing that the information is false or that the act did not occur, commits a simple misdemeanor.

[C75, 77, §235A.9; C79, 81, §232.75]

86 Acts, ch 1238, §11; 87 Acts, ch 13, §2; 2001 Acts, ch 122, §6

Referred to in §232.68, 232.71B

232.76 Publicity, educational, and training programs.

1. The department, within the limits of available funds, shall conduct a continuing publicity and educational program for the personnel of the department, persons required to report, and any other appropriate persons to encourage the fullest possible degree of reporting of suspected cases of child abuse. Educational programs shall include but not be limited to the diagnosis and cause of child abuse, the responsibilities, obligations, duties, and powers of persons and agencies under this chapter and the procedures of the department and the juvenile court with respect to suspected cases of child abuse and disposition of actual cases.

2. *a.* For the purposes of this subsection, in addition to the definition in section 232.68, a *"child protection worker"* also includes any employee of the department who provides services to or otherwise works directly with children and families for whom child abuse has been alleged.

b. The training of a child protection worker shall include but is not limited to the worker's legal duties to protect the constitutional and statutory rights of a child and the child's family members throughout the child or family members' period of involvement with the department beginning with the child abuse report and ending with the department's closure of the case. The curriculum used for the training shall specifically include instruction on the fourth amendment to the Constitution of the United States and parents' legal rights.

[C75, 77, §235A.10; C79, 81, §232.76]

2004 Acts, ch 1152, §3

Referred to in §232.68

232.77 Photographs, X rays, and medically relevant tests.

1. A person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs, X rays, or other physical examinations or tests of a child which would provide medical indication of allegations arising from a child abuse assessment. A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department that the photographs or X rays have been taken or the examinations or other tests have been performed. The person who made notification shall retain the photographs or X rays or examination or test findings for a reasonable time following the notification. Whenever the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of the institution, agency, or facility or that person's designated delegate of the need for photographs or X rays or examinations or other tests.

2. If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

[C75, 77, §235A.11; C79, 81, §232.77]

83 Acts, ch 96, §157, 159; 90 Acts, ch 1264, §29; 93 Acts, ch 93, §3; 94 Acts, ch 1130, §6; 96 Acts, ch 1092, §4; 97 Acts, ch 35, §10, 25

Referred to in §232.68, 232.73

PART 3

TEMPORARY CUSTODY OF A CHILD

232.78 Temporary custody of a child pursuant to ex parte court order.

1. The juvenile court may enter an ex parte order directing a peace officer or a juvenile court officer to take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

a. The person responsible for the care of the child is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section, or there is reasonable cause to believe that a request for consent would further endanger the child, or there is reasonable cause to believe that a request for consent will cause the parent, guardian, or legal custodian to take flight with the child.

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health. The circumstances or conditions indicating the presence of such imminent danger shall include but are not limited to any of the following:

(1) The refusal or failure of the person responsible for the care of the child to comply with the request of a peace officer, juvenile court officer, or child protection worker for such person to obtain and provide to the requester the results of a physical or mental examination of the child. The request for a physical examination of the child may specify the performance of a medically relevant test.

(2) The refusal or failure of the person responsible for the care of the child or a person present in the person's home to comply with a request of a peace officer, juvenile court officer, or child protection worker for such a person to submit to and provide to the requester the results of a medically relevant test of the person.

c. There is not enough time to file a petition and hold a hearing under section 232.95.

d. The application for the order includes a statement of the facts to support the findings specified in paragraphs "*a*", "*b*", and "*c*".

2. The person making the application for an order shall assert facts showing there is reasonable cause to believe that the child cannot either be returned to the place where the child was residing or placed with the parent who does not have physical care of the child.

3. Except for good cause shown or unless the child is sooner returned to the place where the child was residing or permitted to return to the child care facility, a petition shall be filed under this chapter within three days of the issuance of the order.

4. The juvenile court may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before the filing of a petition under this chapter provided:

a. Such procedures are necessary to safeguard the life and health of the child; and

b. There is not enough time to file a petition under this chapter and hold a hearing as provided in section 232.95.

5. The juvenile court, before or after the filing of a petition under this chapter, may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and cause of injuries to the child as required by section 232.71B, provided all of the following apply:

a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to provide written consent to the examination.

b. The juvenile court has entered an ex parte order directing the removal of the child from the child's home or a child care facility under this section.

c. There is not enough time to file a petition and to hold a hearing as provided in section 232.98.

6. Any person who may file a petition under this chapter may apply for, or the court on its own motion may issue, an order for temporary removal under this section. An appropriate person designated by the court shall confer with a person seeking the removal order, shall

make every reasonable effort to inform the parent or other person legally responsible for the child's care of the application, and shall make such inquiries as will aid the court in disposing of such application. The person designated by the court shall file with the court a complete written report providing all details of the designee's conference with the person seeking the removal order, the designee's efforts to inform the parents or other person legally responsible for the child's care of the application, any inquiries made by the designee to aid the court in disposing of the application, and all information the designee communicated to the court. The report shall be filed within five days of the date of the removal order. If the court does not designate an appropriate person who performs the required duties, notwithstanding section 234.39 or any other provision of law, the child's parent shall not be responsible for paying the cost of care and services for the duration of the removal order.

7. Any order entered under this section authorizing temporary removal of a child must include both of the following:

a. A determination made by the court that continuation of the child in the child's home would be contrary to the welfare of the child. Such a determination must be made on a case-by-case basis. The grounds for the court's determination must be explicitly documented and stated in the order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determination shall not be a prerequisite to the removal of the child.

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

[C79, 81, §232.78]

84 Acts, ch 1279, §9; 85 Acts, ch 173, §10, 11; 89 Acts, ch 230, §14; 94 Acts, ch 1172, §23; 97 Acts, ch 35, §11, 25; 98 Acts, ch 1190, §4 – 6; 99 Acts, ch 192, §33; 2000 Acts, ch 1067, §6, 7; 2001 Acts, ch 135, §12, 13

Referred to in §232.44, 232.73, 232.79, 232.95, 232.98, 232.104, 232.196, 233.2

232.79 Custody without court order.

1. A peace officer or juvenile court officer may take a child into custody, a physician treating a child may keep the child in custody, or a juvenile court officer may authorize a peace officer, physician, or medical security personnel to take a child into custody, without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

a. The child is in a circumstance or condition that presents an imminent danger to the child's life or health.

b. There is not enough time to apply for an order under section 232.78.

2. If a person authorized by this section removes or retains custody of a child, the person shall:

a. Bring the child immediately to a place designated by the rules of the court for this purpose, unless the person is a physician treating the child and the child is or will presently be admitted to a hospital.

b. Make every reasonable effort to inform the parent, guardian, or custodian of the whereabouts of the child.

c. In accordance with court-established procedures, immediately orally inform the court of the emergency removal and the circumstances surrounding the removal.

d. Within twenty-four hours of orally informing the court of the emergency removal in accordance with paragraph "*c*", inform the court in writing of the emergency removal and the circumstances surrounding the removal.

3. Any person, agency, or institution acting in good faith in the removal or keeping of a child pursuant to this section, and any employer of or person under the direction of such a person, agency, or institution, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as the result of such removal or keeping.

4. *a.* When the court is informed that there has been an emergency removal or keeping of a child without a court order, the court shall direct the department of human services or the juvenile probation department to make every reasonable effort to communicate

immediately with the child's parent or parents or other person legally responsible for the child's care. Upon locating the child's parent or parents or other person legally responsible for the child's care, the department of human services or the juvenile probation department shall, in accordance with court-established procedures, immediately orally inform the court. After orally informing the court, the department of human services or the juvenile probation department shall provide to the court written documentation of the oral information.

b. The court shall authorize the department of human services or the juvenile probation department to cause a child thus removed or kept to be returned if it concludes there is not an imminent risk to the child's life and health in so doing. If the department of human services or the juvenile probation department receives information which could affect the court's decision regarding the child's return, the department of human services or the juvenile probation department, in accordance with court established procedures, shall immediately orally provide the information to the court. After orally providing the information to the court, the department of human services or the juvenile probation department shall provide to the court written documentation of the oral information. If the child is not returned, the department of human services or the juvenile probation department shall forthwith cause a petition to be filed within three days after the removal.

c. If deemed appropriate by the court, upon being informed that there has been an emergency removal or keeping of a child without a court order, the court may enter an order in accordance with section 232.78.

5. When there has been an emergency removal or keeping of a child without a court order, a physical examination of the child by a licensed medical practitioner shall be performed within twenty-four hours of such removal, unless the child is returned to the child's home within twenty-four hours of the removal.

[C79, 81, §232.79]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §10; 89 Acts, ch 230, §15; 90 Acts, ch 1215, §1; 94 Acts, ch 1172, §24; 2001 Acts, ch 135, §14

Referred to in §232.44, 232.79A, 232.95, 232.104, 232B.6

232.79A Children without adult supervision.

If a peace officer determines that a child does not have adult supervision because the child's parent, guardian, or other person responsible for the care of the child has been arrested and detained or has been unexpectedly incapacitated, and that no adult who is legally responsible for the care of the child can be located within a reasonable period of time, the peace officer shall attempt to place the child with an adult relative of the child, an adult person who cares for the child, or another adult person who is known to the child. The person with whom the child is placed is authorized to give consent for emergency medical treatment of the child and shall not be held liable for any action arising from giving the consent. Upon the request of the peace officer, the department shall assist in making the placement. The placement shall not exceed a period of twenty-four hours and shall be terminated when a person who is legally responsible for the care of the child is located and takes custody of the child. If a person who is legally responsible for the care of the child cannot be located within the twenty-four hour period or a placement in accordance with this section is unavailable, the provisions of section 232.79 shall apply. If the person with whom the child is placed charges a fee for the care of the child, the fee shall be paid from funds provided in the appropriation to the department for protective child care.

90 Acts, ch 1215, §2

232.80 Homemaker services.

A homemaker-home health aide may be assigned to give care to a child in the child's place of residence. Whenever possible, the services shall be provided in preference to removal of the child from the home. The care may be provided under this Act* on an emergency basis for up to twenty-four hours without court order, and may be ordered by the court for a period of time extending until dismissal or disposition of the case.

[C79, 81, §232.80; 82 Acts, ch 1260, §118]

[P] *See 78 Acts, ch 1088

232.81 Complaint.

1. Any person having knowledge of the circumstances may file a complaint with the person or agency designated by the court to perform intake duties alleging that a child is a child in need of assistance.

2. Upon receipt of a complaint, the court may request the department of human services, juvenile probation office, or other authorized agency or individual to conduct a preliminary investigation of the complaint to determine if further action should be taken.

3. A petition alleging the child to be a child in need of assistance may be filed pursuant to section 232.87 provided the allegations of the complaint, if proven, are sufficient to establish the court's jurisdiction and the filing is in the best interests of the child.

[SS15, §254-a15; C24, 27, 31, 35, 39, §**3621;** C46, 50, 54, 58, 62, §232.5; C71, 73, 75, 77, §232.3; C79, 81, §232.81]

83 Acts, ch 96, §157, 159; 2011 Acts, ch 98, §6

Referred to in §232.21, 232.83

232.82 Removal of sexual offenders and physical abusers from the residence pursuant to court order.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion, that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, or a physical abuse as defined by section 232.2, subsection 42, the juvenile court may enter an ex parte order requiring the alleged sexual offender or physical abuser to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense or physical abuse has occurred and that substantial evidence exists to believe that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of human services, or a juvenile court officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender or physical abuser, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

[82 Acts, ch 1209, §14]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 86 Acts, ch 1186, §6; 90 Acts, ch 1251, §27

232.83 Child sexual abuse involving a person not responsible for the care of the child.

1. A complaint related to circumstances involving a child who is alleged to be a victim of an offense defined in chapter 709, 726, or 728 and an alleged offender who is not a person responsible for the care of the child shall be handled pursuant to section 232.81.

2. Anyone authorized to conduct a preliminary investigation in response to a complaint may apply for, or the court on its own motion may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and causes of any injuries, emotional damage, or other such needs of a child as specified in section 232.2, subsection 6, paragraph "*c*", "*e*", or "*f*", provided that all of the following apply:

a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to authorize the examination.

b. There is not enough time to file a petition and hold a hearing under this chapter.

c. The parent, guardian, or legal custodian has not provided care and treatment related to their child's alleged victimization.

88 Acts, ch 1252, §2
Referred to in §709.13

232.84 Transfer of custody — notice to adult relatives.

1. For the purposes of this section, unless the context otherwise requires, *"agency"* means the department, juvenile court services, or a private agency.

2. Within thirty days after the entry of an order under this chapter transferring custody of a child to an agency for placement, the agency shall exercise due diligence in identifying and providing notice to the child's grandparents, aunts, uncles, adult siblings, and adult relatives suggested by the child's parents, subject to exceptions due to the presence of family or domestic violence.

3. The notice content shall include but is not limited to all of the following:

a. A statement that the child has been or is being removed from the custody of the child's parent or parents.

b. An explanation of the options the relative has under federal, state, and other law to participate in the care and placement of the child on a temporary or permanent basis. The options addressed shall include but are not limited to assistance and support options, options for participating in legal proceedings, and any options that may be lost by failure to respond to the notice.

c. A description of the requirements for the relative to serve as a foster family home provider or other type of care provider for the child and the additional services, training, and other support available for children receiving such care.

d. Information concerning the option to apply for kinship guardianship assistance payments.

2009 Acts, ch 120, §3

232.85 and 232.86 Reserved.

PART 4

JUDICIAL PROCEEDINGS

232.87 Filing of a petition — contents of petition.

1. A formal judicial proceeding to determine whether a child is a child in need of assistance under this chapter shall be initiated by the filing of a petition alleging a child to be a child in need of assistance.

2. A petition may be filed by the department of human services, juvenile court officer, or county attorney.

3. The department, juvenile court officer, county attorney or judge may authorize the filing of a petition with the clerk of the court by any competent person having knowledge of the circumstances without the payment of a filing fee.

4. The petition shall be submitted in the form specified in section 232.36.

5. The petition shall contain the information specified in section 232.36 and a clear and concise summary of the facts which bring the child within the jurisdiction of the court under this division.

[C79, 81, §232.87]
83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201
Referred to in §232.81, 232.82, 232.95, 232.98, 233.2

232.88 Summons, notice, subpoenas, and service.

After a petition has been filed, the court shall issue and serve summons, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. Reasonable notice shall be provided to the persons required to be provided notice under section 232.37, except that notice shall be

waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. In addition, reasonable notice for any hearing under this division shall be provided to the agency, facility, institution, or person, including a foster parent, relative, or other individual providing preadoptive care, with whom a child has been placed.

[SS15, §254-a16; C24, 27, 31, 35, 39, §**3623;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §232.4; C79, 81, §232.88]

89 Acts, ch 229, §5; 95 Acts, ch 182, §3; 96 Acts, ch 1034, §10; 97 Acts, ch 164, §2; 2001 Acts, ch 135, §28

Referred to in §232.91, 331.653

232.89 Right to and appointment of counsel.

1. Upon the filing of a petition the parent, guardian, or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition, the court shall appoint counsel and a guardian ad litem for the child identified in the petition as a party to the proceedings. If a guardian ad litem has previously been appointed for the child in a proceeding under division II of this chapter or a proceeding in which the court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem upon the filing of the petition under this part. Counsel shall be appointed as follows:

a. If the child is represented by counsel and the court determines there is a conflict of interest between the child and the child's parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child, who shall be compensated pursuant to the provisions of subsection 3.

b. If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of subsection 3.

3. The court shall determine, after giving the parent, guardian, or custodian an opportunity to be heard, whether the person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that the person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office, or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and the child's parent, guardian or custodian as a result of ordering the parent, guardian, or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay an amount the court finds appropriate in the manner and to whom the court directs. If the person fails to comply with the order without good reason, the court shall enter judgment against the person. If impairment is deemed likely or if the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection 2, paragraph "*b*".

4. The same person may serve both as the child's counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as guardian ad litem, or a separate guardian ad litem is required to fulfill the requirements of subsection 2.

5. The court may appoint a court appointed special advocate to act as guardian ad litem. The court appointed special advocate 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. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit a written report to the court and to each of the parties to the proceedings containing results of the court appointed special advocate's initial investigation of the child's case, including but not limited to recommendations regarding placement of the child and other recommendations based on the best interest of the child. The court appointed special

advocate shall submit subsequent reports to the court and parties, as needed, detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. In addition, the court appointed special advocate shall file other reports to the court as required by the court.

[C24, 27, 31, 35, 39, §**3631;** C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.28; C79, 81, §232.89]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1186, §7; 87 Acts, ch 121, §4; 89 Acts, ch 283, §24; 90 Acts, ch 1271, §1506, 1507; 96 Acts, ch 1193, §5; 97 Acts, ch 23, §22; 97 Acts, ch 99, §3, 11; 2002 Acts, ch 1162, §17

Referred to in §232.108, 232.126

232.90 Duties of county attorney.

1. The county attorney shall represent the state in proceedings arising from a petition filed under this division and shall present evidence in support of the petition. The county attorney shall be present at proceedings initiated by petition under this division filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian or if there are contested issues before the court.

2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.

[C66, 71, 73, 75, 77, §232.29; C79, 81, §232.90]

87 Acts, ch 151, §1; 89 Acts, ch 230, §16

Referred to in §232.71C, 232.180

232.91 Presence of child, parents, guardian ad litem, and others at hearings — additional parties — department recordkeeping.

1. Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of the child's parent, guardian, custodian, or guardian ad litem in accordance with and subject to section 232.38. A parent without custody may petition the court to be made a party to proceedings under this division.

2. An agency, facility, institution, or person, including a foster parent or an individual providing preadoptive care, may petition the court to be made a party to proceedings under this division.

3. Any person who is entitled under section 232.88 to receive notice of a hearing concerning a child shall be given the opportunity to be heard in any other review or hearing involving the child. A foster parent, relative, or other individual with whom a child has been placed for preadoptive care shall have the right to be heard in any proceeding involving the child. If a child is of an age appropriate to attend the hearing but the child does not attend, the court shall determine if the child was informed of the child's right to attend the hearing. A presumption exists that it is in the best interests of a child fourteen years of age or older to attend all hearings.

4. If a child is of an age appropriate to attend a hearing but the child does not attend, the court shall determine if the child was informed of the child's right to attend the hearing. A presumption exists that it is in the best interests of a child fourteen years of age or older to attend all hearings and all staff or family meetings involving placement options or services provided to the child. The department shall allow the child to attend all such hearings and meetings unless the attorney for the child finds the child's attendance is not in the best interests of the child. If the child is excluded from attending a hearing or meeting, the department shall maintain a written record detailing the reasons for excluding the child. Notwithstanding sections 232.147 through 232.151, a copy of the written record shall be made available to the child upon the request of the child after reaching the age of majority.

5. For purposes of this section, *"attend"* includes the appearance of the child at a hearing by video or telephonic means.

[SS15, §254-a16; C24, 27, 31, 35, 39, §**3631;** C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.11; C79, 81, §232.91]

84 Acts, ch 1279, §11; 95 Acts, ch 182, §4; 97 Acts, ch 164, §3; 98 Acts, ch 1190, §7; 2007 Acts, ch 172, §13; 2008 Acts, ch 1114, §1; 2008 Acts, ch 1187, §133; 2010 Acts, ch 1065, §1, 2

Referred to in §600A.7

232.92 Exclusion of public from hearings.

Hearings held under this division are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

[C79, 81, §232.92]

89 Acts, ch 230, §17

Referred to in §600A.7

232.93 Other issues adjudicated.

When it appears during the course of any hearing or proceeding that some action or remedy other than those indicated by the application or pleading appears appropriate, the court may, provided all necessary parties consent, proceed to hear and determine the other issues as though originally properly sought and pleaded.

[C66, 71, 73, 75, 77, §232.12; C79, 81, §232.93]

Referred to in §600A.7

232.94 Reporter required.

Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section 624.9.

[C66, 71, 73, 75, 77, §232.32; C79, 81, §232.94]

Referred to in §232.94A, 600A.7

232.94A Records — subsequent hearings.

Juvenile court records, social records, and the material required to be recorded pursuant to section 232.94 shall be maintained and shall be a part of each hearing relating to the child so long as and whenever the child is a child in need of assistance.

84 Acts, ch 1279, §12

Referred to in §600A.7

232.95 Hearing concerning temporary removal.

1. At any time after the petition is filed, any person who may file a petition under section 232.87 may apply for, or the court on its own motion may order, a hearing to determine whether the child should be temporarily removed from home. If the child is in the custody of a person other than the child's parent, guardian, or custodian as the result of action taken pursuant to section 232.78 or 232.79, the court shall hold a hearing within ten days of the date of temporary removal to determine whether the temporary removal should be continued.

2. Upon such hearing, the court may:

a. Remove the child from home and place the child in a shelter care facility or in the custody of a suitable person or agency pending a final order of disposition if the court finds that substantial evidence exists to believe that removal is necessary to avoid imminent risk to the child's life or health.

(1) If removal is ordered, the court must, in addition, make a determination that continuation of the child in the child's home would be contrary to the welfare of the child,

and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home.

(2) The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child.

(3) The order shall also include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

b. Release the child to the child's parent, guardian, or custodian pending a final order of disposition.

c. Authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

3. The court shall make and file written findings as to the grounds for granting or denying an application under this section.

4. If the court orders the child removed from the home pursuant to subsection 2, paragraph *"a"*, the court shall hold a hearing to review the removal order within six months unless a dispositional hearing pursuant to section 232.99 has been held.

[C79, 81, §232.95]

84 Acts, ch 1279, §13; 86 Acts, ch 1186, §8; 87 Acts, ch 159, §2; 98 Acts, ch 1190, §8; 2000 Acts, ch 1067, §8; 2001 Acts, ch 135, §15

[Subsection 2, paragraphs b and c, were inadvertently omitted in the 2001 Code Supplement and 2003 Code]

2004 Acts, ch 1101, §28

Referred to in §232.44, 232.78, 232.96, 232.104, 232B.6, 600A.7

232.96 Adjudicatory hearing.

1. The court shall hear and adjudicate cases involving a petition alleging a child to be a child in need of assistance.

2. The state shall have the burden of proving the allegations by clear and convincing evidence.

3. Only evidence which is admissible under the rules of evidence applicable to the trial of civil cases shall be admitted, except as otherwise provided by this section.

4. A report made to the department of human services pursuant to chapter 235A shall be admissible in evidence, but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a health practitioner or mental health professional and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

6. A report, study, record, or other writing or an audiotape or videotape recording made by the department of human services, a juvenile court officer, a peace officer or a hospital relating to a child in a proceeding under this division is admissible notwithstanding any objection to hearsay statements contained in it provided it is relevant and material and provided its probative value substantially outweighs the danger of unfair prejudice to the child's parent, guardian, or custodian. The circumstances of the making of the report, study, record or other writing or an audiotape or videotape recording, including the maker's lack of personal knowledge, may be proved to affect its weight.

7. After the hearing is concluded, the court shall make and file written findings as to the truth of allegations of the petition and as to whether the child is a child in need of assistance.

8. If the court concludes facts sufficient to sustain a petition have not been established by clear and convincing evidence or if the court concludes that its aid is not required in the circumstances, the court shall dismiss the petition.

9. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence and that its aid is required, the court may enter an order adjudicating the child to be a child in need of assistance.

10. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from the child's home as set forth in section 232.95, subsection 2, paragraph "*a*", pending a final order of disposition. The order shall include both of the following:

a. A determination that continuation of the child in the child's home would be contrary to the welfare of the child, and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for temporary removal of the child.

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.96]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 84 Acts, ch 1207, §4; 87 Acts, ch 153, §7; 98 Acts, ch 1190, §9; 2000 Acts, ch 1067, §9; 2001 Acts, ch 135, §16

Referred to in §232.99, 232.104, 232.116, 600A.7

232.97 Social investigation and report.

1. The court shall not make a disposition of the petition until two working days after a social report has been submitted to the court and counsel for the child and has been considered by the court. The court may waive the two-day requirement upon agreement by all the parties. The court may direct either the juvenile court officer or the department of human services or any other agency licensed by the state to conduct a social investigation and to prepare a social report which may include any evidence provided by an individual providing foster care for the child. A report prepared shall include any founded reports of child abuse.

2. The social investigation may be conducted and the social history may be submitted to the court prior to the adjudication of the child as a child in need of assistance with the consent of the parties.

3. The social report shall not be disclosed except as provided in this section and except as otherwise provided in this chapter. Prior to the hearing at which the disposition is determined, the court shall permit counsel for the child, counsel for the child's parent, guardian, or custodian, and the guardian ad litem to inspect any social report to be considered by the court. The court may in its discretion order counsel not to disclose parts of the report to the child, or to the parent, guardian, or custodian if disclosure would seriously harm the treatment or rehabilitation of the child or would violate a promise of confidentiality given to a source of information. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

[C66, 71, 73, 75, 77, §232.14; C79, 81, §232.97]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 84 Acts, ch 1279, §14; 86 Acts, ch 1186, §9; 2005 Acts, ch 124, §4

232.98 Physical and mental examinations.

1. Except as provided in section 232.78, subsection 5, a physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 and after a hearing to determine whether an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination.

a. The hearing required by this section may be held simultaneously with the adjudicatory hearing.

b. An examination ordered prior to the adjudication shall be conducted on an outpatient basis when possible, but if necessary the court may commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed fifteen days if all of the following are found to be present:

(1) Probable cause exists to believe that the child is a child in need of assistance pursuant to section 232.2, subsection 6, paragraph "*e*" or "*f*".

(2) Commitment is necessary to determine whether there is clear and convincing evidence that the child is a child in need of assistance.

(3) The child's attorney agrees to the commitment.

c. An examination ordered after adjudication shall be conducted on an outpatient basis when possible, but if necessary the court may commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed thirty days.

d. The child's parent, guardian, or custodian shall be included in counseling sessions offered during the child's stay in a hospital, facility, or institution when feasible, and when in the best interests of the child and the child's parent, guardian, or custodian. If separate counseling sessions are conducted for the child and the child's parent, guardian, or custodian, a joint counseling session shall be offered prior to the release of the child from the hospital, facility, or institution. The court shall require that notice be provided to the child's guardian ad litem of the counseling sessions and of the participants and results of the sessions.

2. Following an adjudication that a child is a child in need of assistance, the court may after a hearing order the physical or mental examination of the parent, guardian or custodian if that person's ability to care for the child is at issue.

[C66, 71, 73, 75, 77, §232.13; C79, 81, §232.98; 82 Acts, ch 1209, §15]

84 Acts, ch 1279, §15; 85 Acts, ch 173, §12; 86 Acts, ch 1186, §10; 2009 Acts, ch 41, §263

Referred to in §232.78

232.99 Dispositional hearing — findings.

1. Following the entry of an order pursuant to section 232.96, the court shall, as soon as practicable, hold a dispositional hearing in order to determine what disposition should be made of the petition.

2. All relevant and material evidence shall be admitted.

3. In the initial dispositional hearing, any hearing held under section 232.103, and any dispositional review or permanency hearing, the court shall inquire of the parties as to the sufficiency of the services being provided and whether additional services are needed to facilitate the safe return of the child to the child's home. If the court determines such services are needed, the court shall order the services to be provided. The court shall advise the parties that failure to identify a deficiency in services or to request additional services may preclude the party from challenging the sufficiency of the services in a termination of parent-child relationship proceeding.

4. When the dispositional hearing is concluded the court shall make the least restrictive disposition appropriate considering all the circumstances of the case. The dispositions which may be entered under this division are listed in sections 232.100 to 232.102 in order from least to most restrictive.

5. The court shall make and file written findings as to its reason for the disposition.
[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.99]
98 Acts, ch 1190, §10
Referred to in §232.58, 232.95, 232.104

232.100 Suspended judgment.
After the dispositional hearing the court may enter an order suspending judgment and continuing the proceedings subject to terms and conditions imposed to assure the proper care and protection of the child. Such terms and conditions may include the supervision of the child and of the parent, guardian or custodian by the department of human services, juvenile court office or other appropriate agency designated by the court. The maximum duration of any term or condition of a suspended judgment shall be twelve months unless the court finds at a hearing held during the last month of that period that exceptional circumstances require an extension of the term or condition for an additional six months.
[C79, 81, §232.100]
83 Acts, ch 96, §157, 159
Referred to in §232.99, 232.103, 232.117, 232.127

232.101 Retention of custody by parent.
1. After the dispositional hearing, the court may enter an order permitting the child's parent, guardian or custodian at the time of the filing of the petition to retain custody of the child subject to terms and conditions which the court prescribes to assure the proper care and protection of the child. Such terms and conditions may include supervision of the child and the parent, guardian or custodian by the department of human services, juvenile court office or other appropriate agency which the court designates. Such terms and conditions may also include the provision or acceptance by the parent, guardian or custodian of special treatment or care which the child needs for the child's physical or mental health. If the parent, guardian or custodian fails to provide the treatment or care, the court may order the department of human services or some other appropriate state agency to provide such care or treatment.
2. The duration of any period of supervision or other terms or conditions shall be for an initial period of no more than twelve months and the court, at the expiration of that period, upon a hearing and for good cause shown, may make not more than two successive extensions of such supervision or other terms or conditions of up to twelve months each.
[S13, §254-a20, 2708; C24, 27, 31, 35, 39, §**3637;** C46, 50, 54, 58, 62, §232.21; C66, 71, 73, 75, 77, §232.33; C79, 81, §232.101]
83 Acts, ch 96, §157, 159; 97 Acts, ch 99, §4
Referred to in §232.99, 232.103, 232.117, 232.127

232.102 Transfer of legal custody of child and placement.
1. *a.* After a dispositional hearing the court may enter an order transferring the legal custody of the child to one of the following for purposes of placement:
(1) A parent who does not have physical care of the child, other relative, or other suitable person.
(2) A child-placing agency or other suitable private agency, facility, or institution which is licensed or otherwise authorized by law to receive and provide care for the child.
(3) The department of human services.
b. If 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 adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize

the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

1A. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

2. After a dispositional hearing and upon the request of the department, the court may enter an order appointing the department as the guardian of an unaccompanied refugee child or of a child without parent or guardian.

3. After a dispositional hearing and upon written findings of fact based upon evidence in the record that an alternative placement set forth in subsection 1, paragraph *"a"*, subparagraph (1), has previously been made and is not appropriate the court may enter an order transferring the guardianship of the child for the purposes of subsection 8, to the director of human services for the purposes of placement in the Iowa juvenile home at Toledo.

4. *a.* Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the Iowa juvenile home at Toledo pursuant to subsection 3, to a facility which has been designated to be an alternative placement site for the juvenile home, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a new dispositional order under section 232.103.

(2) Immediate removal of the child from the juvenile home is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph *"a"* exist and there is insufficient time to provide notice as required under rule of juvenile procedure 8.12, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a new dispositional order under section 232.103 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

5. *a.* Whenever possible the court should permit the child to remain at home with the child's parent, guardian, or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:

(1) The child cannot be protected from physical abuse without transfer of custody; or

(2) The child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance and an adequate placement is available.

b. In order to transfer custody of the child under this subsection, the court must make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and shall identify the reasonable efforts that have been made. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child. If the court transfers custody of the child, unless the court waives the requirement for making reasonable efforts or otherwise makes a determination that reasonable efforts are not required, reasonable efforts shall be made to make it possible for the child to safely return to the family's home.

6. The child shall not be placed in the state training school.

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will

serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interests of the child. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a parent who does not have physical care of the child, other relative, or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian, or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in group foster care, the department or agency shall make every reasonable effort to place the child in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

8. Any order transferring custody to the department or an agency shall include a statement informing the child's parent that the consequences of a permanent removal may include the termination of the parent's rights with respect to the child.

9. An agency, facility, institution, or person to whom custody of the child has been transferred pursuant to this section shall file a written report with the court at least every six months concerning the status and progress of the child. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to this section in order to determine whether the child should be returned home, an extension of the placement should be made, a permanency hearing should be held, or a termination of the parent-child relationship proceeding should be instituted. The placement shall be terminated and the child returned to the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section 232.2, subsection 6. If the placement is extended, the court shall determine whether additional services are necessary to facilitate the return of the child to the child's home, and if the court determines such services are needed, the court shall order the provision of such services. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency responsible for the placement of the child shall consider placing the child in the same licensed foster care facility.

a. The initial dispositional review hearing shall not be waived or continued beyond six months after the date of the dispositional hearing.

b. Subsequent dispositional review hearings shall not be waived or continued beyond twelve months after the date of the most recent dispositional review hearing.

c. For purposes of this subsection, a hearing held pursuant to section 232.103 satisfies the requirements for initial dispositional review or subsequent permanency hearing.

10. *a.* As used in this division, "*reasonable efforts*" means the efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. Reasonable efforts shall include but are not limited to giving consideration, if appropriate, to interstate placement of a child in the permanency planning decisions involving the child and giving consideration to in-state and out-of-state placement options at a permanency hearing and when using concurrent planning. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include but are not limited to family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

(1) The type, duration, and intensity of services or support offered or provided to the child and the child's family. If family-centered services were not provided, the court record shall

enumerate the reasons the services were not provided, including but not limited to whether the services were not available, not accepted by the child's family, judged to be unable to protect the child and the child's family during the time the services would have been provided, judged to be unlikely to be successful in resolving the problems which would lead to removal of the child, or other services were found to be more appropriate.

(2) The relative risk to the child of remaining in the child's home versus removal of the child.

b. As used in this section, "*family-centered services*" means services and other support intended to safely maintain a child with the child's family or with a relative, to safely and in a timely manner return a child to the home of the child's parent or relative, or to promote achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services are adapted to the individual needs of a family in regard to the specific services and other support provided to the child's family and the intensity and duration of service delivery. Family-centered services are intended to preserve a child's connections to the child's neighborhood, community, and family and to improve the overall capacity of the child's family to provide for the needs of the children in the family.

11. The performance of reasonable efforts to place a child for adoption or with a guardian may be made concurrently with making reasonable efforts as defined in this section.

12. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

a. The parent has abandoned the child.

b. The court finds the circumstances described in section 232.116, subsection 1, paragraph "*i*", are applicable to the child.

c. The parent's parental rights have been terminated under section 232.116 or involuntarily terminated by an order of a court of competent jurisdiction in another state with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.

d. The parent has been convicted of the murder of another child of the parent.

e. The parent has been convicted of the voluntary manslaughter of another child of the parent.

f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

13. Unless prohibited by the court order transferring custody of the child for placement or other court order or the department or agency that received the custody transfer finds that allowing the visitation would not be in the child's best interest, the department or agency may authorize reasonable visitation with the child by the child's grandparent, great-grandparent, or other adult relative who has established a substantial relationship with the child.

[S13, §254-a20, -a23, 2708, 2709; C24, 27, 31, 35, 39, §**3637, 3646, 3647;** C46, 50, 54, 58, 62, §232.21, 232.27, 232.28; C66, 71, 73, 75, 77, §232.33; C79, 81, §232.102; 81 Acts, ch 11, §17; 82 Acts, ch 1260, §23]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §16 – 18; 85 Acts, ch 173, §13; 87 Acts, ch 159, §3; 88 Acts, ch 1134, §52; 88 Acts, ch 1249, §14; 90 Acts, ch 1239, §10, 11; 91 Acts, ch 232, §7, 8; 92 Acts, ch 1229, §5; 92 Acts, 1st Ex, ch 1004, §2; 95 Acts, ch 67, §16; 97 Acts, ch 99, §5; 98 Acts, ch 1190, §11 – 17; 2000 Acts, ch 1067, §10; 2001 Acts, ch 24, §40; 2001 Acts, ch 135, §17 – 19; 2002 Acts, ch 1081, §3; 2003 Acts, ch 117, §5; 2004 Acts, ch 1116, §8 – 10; 2007 Acts, ch 172, §6, 9; 2007 Acts, ch 218, §114; 2008 Acts, ch 1098, §1; 2009 Acts, ch 41, §263

Referred to in §225C.49, 232.2, 232.95, 232.96, 232.99, 232.103, 232.104, 232.111, 232.116, 232.117, 232.127, 232.182, 232.189, 232B.5, 233.2, 234.6, 234.35

[P] Copy of dispositional order under subsection 9 to be submitted to foster care review boards; 84 Acts, ch 1279, §42

[P] Limitation on placing child in mental health institute; 86 Acts, ch 1246, §305

232.103 Termination, modification, vacation and substitution of dispositional order.

1. At any time prior to expiration of a dispositional order and upon the motion of an authorized party or upon its own motion as provided in this section, the court may terminate the order and discharge the child, modify the order, or vacate the order and make a new order.

2. The following persons shall be authorized to file a motion to terminate, modify or vacate and substitute a dispositional order:

a. The child.

b. The child's parent, guardian or custodian, except that such motion may be filed by that person not more often than once every six months except with leave of court for good cause shown.

c. The child's guardian ad litem.

d. A person supervising the child pursuant to a dispositional order.

e. An agency, facility, institution or person to whom legal custody has been transferred pursuant to a dispositional order.

f. The county attorney.

3. A change in the level of care for a child who is subject to a dispositional order for out-of-home placement requires modification of the dispositional order. A hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate or modify an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given to the parties. The hearing shall be conducted in accordance with the procedure established for dispositional hearings under section 232.50, subsection 3.

4. The court may modify a dispositional order, vacate and substitute a dispositional order, or terminate a dispositional order and release the child if the court finds that any of the following circumstances exist:

a. The purposes of the order have been accomplished and the child is no longer in need of supervision, care, or treatment.

b. The purposes of the order cannot reasonably be accomplished.

c. The efforts made to effect the purposes of the order have been unsuccessful and other options to effect the purposes of the order are not available.

d. The purposes of the order have been sufficiently accomplished and the continuation of supervision, care, or treatment is unjustified or unwarranted.

5. The court may modify or vacate an order for good cause shown provided that where the request to modify or vacate is based on the child's alleged failure to comply with the conditions or terms of the order, the court may modify or vacate the order only if it finds that there is clear and convincing evidence that the child violated a material and reasonable condition or term of the order.

6. If the court vacates the order it may make any other order in accordance with and subject to the provisions of sections 232.100 to 232.102.

7. With respect to a temporary transfer order made pursuant to section 232.102, subsection 4, if the court finds that removal of a child from the Iowa juvenile home is necessary to safeguard the child's physical or emotional health and is in the best interests of the child, the court shall grant the director's motion for a new dispositional order to place the child in a facility which has been designated to be an alternative placement site for the juvenile home.

[C79, 81, §232.103]

90 Acts, ch 1239, §12; 2001 Acts, ch 135, §20; 2003 Acts, ch 117, §6; 2004 Acts, ch 1154, §1, 2; 2012 Acts, ch 1021, §51

Referred to in §232.2, 232.99, 232.102, 232.104

[T] Subsection 3 amended

232.104 Permanency hearing — permanency order — subsequent proceedings.

1. *a.* The time for the initial permanency hearing for a child subject to out-of-home placement shall be the earlier of the following:

(1) For a temporary removal order entered under section 232.78, 232.95, or 232.96, for a child who was removed without a court order under section 232.79, or for an order entered

under section 232.102, for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

(2) For an order entered under section 232.102, for which the court has waived reasonable efforts requirements under section 232.102, subsection 12, the permanency hearing shall be held within thirty days of the date the requirements were waived.

b. The permanency hearing may be held concurrently with a hearing under section 232.103 to review, modify, substitute, vacate, or terminate a dispositional order.

c. Reasonable notice of a permanency hearing shall be provided to the parties. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.

2. After a permanency hearing the court shall do one of the following:

a. Enter an order pursuant to section 232.102 to return the child to the child's home.

b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings required by subsection 3, to do one of the following:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph would not be in the child's best interest, order another planned permanent living arrangement for the child.

3. Prior to entering a permanency order pursuant to subsection 2, paragraph "*d*", convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

4. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

5. With respect to a dispositional order providing for transfer of custody of a child and siblings to the department or other agency for placement for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.

6. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence, that returning the child to such custody would be in the best interest of the child.

7. *a.* Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the

child is being served. When the order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

b. In lieu of the procedures specified in paragraph "*a*", the court may close the child in need of assistance case by transferring jurisdiction over the child's guardianship to the probate court. The court shall inform the proposed guardian of the guardian's reporting duties under section 633.669 and other duties under the probate code. Upon transferring jurisdiction, the court shall direct the probate clerk, once the proposed guardian has filed an oath of office and identification in accordance with section 602.6111, to issue letters of appointment for guardianship and docket the case in probate. Records contained in the probate case file that were copied or transferred from the juvenile court file concerning the case shall be subject to section 232.147 and other confidentiality provisions of this chapter for cases not involving juvenile delinquency.

87 Acts, ch 159, §4; 89 Acts, ch 229, §6; 95 Acts, ch 182, §5; 98 Acts, ch 1190, §18, 19; 2000 Acts, ch 1067, §11, 12; 2001 Acts, ch 135, §21, 22; 2007 Acts, ch 67, §4; 2007 Acts, ch 172, §7; 2010 Acts, ch 1143, §1

Referred to in §232.117, 633.559, 633.675, 633.679

232.105 Reserved.

232.106 Terms and conditions on child's parent.

If the court enters an order under this chapter which imposes terms and conditions on the child's parent, guardian, or custodian, the purpose of the terms and conditions shall be to assure the protection of the child. The order is subject to the following provisions:

1. The order shall state the reasons for and purpose of the terms and conditions.

2. If a parent, guardian, or custodian is required to have a chemical test of blood or urine for the purpose of determining the presence of an illegal drug, the test shall be a medically relevant test as defined in section 232.73.

95 Acts, ch 182, §9; 96 Acts, ch 1092, §5

232.107 Parent visitation.

If a child is removed from the child's home in accordance with an order entered under this division based upon evidence indicating the presence of an illegal drug in the child's body, unless the court finds that substantial evidence exists to believe that reasonable visitation or supervised visitation would cause an imminent risk to the child's life or health, the order shall allow the child's parent reasonable visitation or supervised visitation with the child.

96 Acts, ch 1092, §6

232.108 Visitation or ongoing interaction with siblings.

1. If the court orders the transfer of custody of a child and siblings to the department or other agency for placement under this division, under division II, relating to juvenile delinquency proceedings, or under any other provision of this chapter, the department or other agency shall make a reasonable effort to place the child and siblings together in the same placement. The requirement of this subsection remains applicable to custody transfer orders made at separate times and applies in addition to efforts made by the department or agency to place the child with a relative.

2. If the requirements of subsection 1 apply but the siblings are not placed in the same placement together, the department or other agency shall provide the siblings with the reasons why and the efforts being made to facilitate such placement, or why making efforts for such placement is not appropriate. Unless visitation or ongoing interaction with siblings is suspended or terminated by the court, the department or agency shall make reasonable effort to provide for frequent visitation or other ongoing interaction between the child and

the child's siblings from the time of the child's out-of-home placement until the child returns home or is in a permanent placement.

3. A person who wishes to assert a sibling relationship with a child who is subject to an order under this chapter for an out-of-home placement and to request frequent visitation or other ongoing interaction with the child may file a petition with the court with jurisdiction over the child. Unless the court determines it would not be in the child's best interest, upon finding that the person is a sibling of the child, the provisions of this section providing for frequent visitation or other ongoing interaction between the siblings shall apply. Nothing in this section is intended to provide or expand a right to counsel under this chapter beyond the right provided and persons specified in sections 232.89 and 232.113.

4. If the court determines by clear and convincing evidence that visitation or other ongoing interaction between a child and the child's siblings would be detrimental to the well-being of the child or a sibling, the court shall order the visitation or interaction to be suspended or terminated. The reasons for the determination shall be noted in the court order suspending or terminating the visitation or interaction and shall be explained to the child and the child's siblings, and to the parent, guardian, or custodian of the child.

5. The case permanency plan of a child who is subject to this section shall comply with all of the following, as applicable:

a. The plan shall document the efforts being made to provide for the child's frequent visitation or other ongoing interaction with the child's siblings from the time of the child's out-of-home placement until the child returns home or is in a permanent placement. The child's parent, guardian, or custodian may comment on the efforts as documented in the case permanency plan.

b. If at any point the court determines that the child's visitation or interaction with siblings would be detrimental to the child's well-being and visitation or interaction with siblings is suspended or terminated by the court, the determination shall be noted in the case permanency plan. If the court lifts the suspension or termination, the case permanency plan shall be revised to document the efforts to provide for visitation or interaction as required under paragraph "*a*".

c. If one or more of the child's siblings are also subject to an order under this chapter for an out-of-home placement and the siblings are not placed in the same placement together, the plan shall document the reasons why and the efforts being made to facilitate such placement, or why making efforts for such placement is not appropriate.

6. If an order is entered for termination of parental rights of a child who is subject to this section, unless the court has suspended or terminated sibling visitation or interaction in accordance with this section, the department or child-placing agency shall do all of the following to facilitate frequent visitation or ongoing interaction between the child and siblings when the child is adopted or enters a permanent placement:

a. Include in the training provided to prospective adoptive parents information regarding the importance of sibling relationships to an adopted child and counseling methods for maintaining sibling relationships.

b. Provide prospective adoptive parents with information regarding the child's siblings. The address of a sibling's residence shall not be disclosed in the information unless authorized by court order for good cause shown.

c. Encourage prospective adoptive parents to plan for facilitating postadoption contact between the child and the child's siblings.

7. Any information regarding court-ordered or authorized sibling visitation, interaction, or contact shall be provided to the foster parent, relative caretaker, guardian, prospective adoptive parent, and child as soon as reasonably possible following the entry of the court order or authorization as necessary to facilitate the visitation or interaction.

2007 Acts, ch 67, §5

Referred to in §232.2, 238.18

[SP] Department to adapt section's provisions for application to the subsidized guardianship program; 2011 Acts, ch 98, §10, 11

DIVISION IV

TERMINATION OF PARENT-CHILD RELATIONSHIP PROCEEDING

Referred to in §232.2, 600A.5

232.109 Jurisdiction.

The juvenile court shall have exclusive jurisdiction over proceedings under this chapter to terminate a parent-child relationship and all parental rights with respect to a child. No such termination shall be ordered except under the provisions of this chapter if the court has made an order concerning the child pursuant to the provisions of division III of this chapter and the order is in force at the time a petition for termination is filed.

[C79, 81, §232.109]

232.110 Venue.

1. Venue for termination proceedings under this chapter shall be in the judicial district where the child is found or the judicial district where the child resides except as otherwise provided in subsection 2.

2. If a court has made an order concerning the child pursuant to the provisions of this chapter and the order is still in force at the time the termination petition is filed, such court shall hear and adjudicate the case unless the court transfers the case.

3. The judge may transfer the case to the juvenile court of any county having venue in accordance with the provisions of section 232.62.

[C79, 81, §232.110]

232.111 Petition.

1. A child's guardian, guardian ad litem, or custodian, the department of human services, a juvenile court officer, or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child.

2. *a.* Unless any of the circumstances described in paragraph "*b*" exist, the county attorney shall file a petition for termination of the parent-child relationship and parental rights with respect to a child or if a petition has been filed, join in the petition, under any of the following circumstances:

(1) The child has been placed in foster care for fifteen months of the most recent twenty-two-month period. The petition shall be filed by the end of the child's fifteenth month of foster care placement.

(2) A court has determined aggravated circumstances exist and has waived the requirement for making reasonable efforts under section 232.102 because the court has found the circumstances described in section 232.116, subsection 1, paragraph "*i*", are applicable to the child.

(3) The child is less than twelve months of age and has been judicially determined to have been abandoned or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

(4) The parent has been convicted of the murder or the voluntary manslaughter of another child of the parent.

(5) The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

(6) The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

b. If any of the following conditions exist, the county attorney is not required to file a petition or join in an existing petition as provided in paragraph "*a*":

(1) At the option of the department or by order of the court, the child is being cared for by a relative.

(2) The department or a state agency has documented in the child's case permanency plan provided or available to the court a compelling reason for determining that filing the petition

would not be in the best interest of the child. A compelling reason shall include but is not limited to documentation in the child's case permanency plan indicating it is reasonably likely the completion of the services being received in accordance with the permanency plan will eliminate the need for removal of the child or make it possible for the child to safely return to the family's home within six months.

(3) The department has not provided the child's family, consistent with the time frames outlined in the child's case permanency plan, with those services the state deems necessary for the safe return of the child to the child's home, and the limited extension of time necessary to complete the services is clearly documented in the case permanency plan.

3. The department, juvenile court officer, county attorney or judge may authorize any competent person having knowledge of the circumstances to file a termination petition with the clerk of the court without the payment of a filing fee.

4. A petition for termination of parental rights shall include the following:

a. The legal name, age, and domicile, if any, of the child.

b. The names, residences, and domicile of any:

(1) Living parents of the child.

(2) Guardian of the child.

(3) Custodian of the child.

(4) Guardian ad litem of the child.

(5) Petitioner.

(6) Person standing in the place of the parents of the child.

c. A plain statement of those facts and grounds specified in section 232.116 which indicate that the parent-child relationship should be terminated.

d. A plain statement explaining why the petitioner does not know any of the information required under paragraphs *"a"* and *"b"* of this subsection.

e. A complete list of the services which have been offered to preserve the family and a statement specifying the services provided to address the reasons stated in any order for removal or in any dispositional or permanency order which did not return the child to the child's home.

f. The signature and verification of the petitioner.

[C79, 81, §232.111]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 95 Acts, ch 147, §6; 98 Acts, ch 1190, §20, 21; 2001 Acts, ch 67, §8, 13; 2001 Acts, ch 135, §25; 2002 Acts, ch 1050, §23

Referred to in §232.2, 232.112, 233.2

232.112 Notice — service.

1. Persons listed in section 232.111, subsection 4, shall be necessary parties to a termination of parent-child relationship proceeding and are entitled to receive notice and an opportunity to be heard, except that notice may be dispensed with in the case of any such person whose name or whereabouts the court determines is unknown and cannot be ascertained by reasonably diligent search. In addition to the persons who are necessary parties who may be parties under section 232.111, notice for any hearing under this division shall be provided to the child's foster parent, an individual providing preadoptive care for the child, or a relative providing care for the child.

2. Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a child if the child does not have a guardian or guardian ad litem or if the interests of the guardian or guardian ad litem conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection 1.

3. Notice under this section shall be served personally or shall be sent by restricted certified mail, whichever is determined by the court to be the most effective means of notification. Such notice shall be made according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice by personal delivery shall be served not less than seven days prior to the hearing on termination of parental rights. Notice by restricted certified mail shall be sent not less than fourteen days prior to the hearing on termination of parental rights. A notice by restricted certified

mail which is refused by the necessary party given notice shall be sufficient notice to the party under this section.

[C79, 81, §232.112]

98 Acts, ch 1190, §22

232.113 Right to and appointment of counsel.

1. Upon the filing of a petition the parent identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If the parent desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition the court shall appoint counsel for the child identified in the petition as a party to the proceedings. The same person may serve both as the child's counsel and as guardian ad litem.

[C79, 81, §232.113]

Referred to in §232.108

232.114 Duties of county attorney.

1. Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.

[C81, §232.114]

89 Acts, ch 230, §18

232.115 Reporter required.

Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section 624.9.

[C81, §232.115]

232.116 Grounds for termination.

1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

a. The parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination.

b. The court finds that there is clear and convincing evidence that the child has been abandoned or deserted.

c. The court finds that there is clear and convincing evidence that the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

d. The court finds that both of the following have occurred:

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

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

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

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child's parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, *"significant and meaningful contact"* includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

f. The court finds that all of the following have occurred:

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

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

(3) The child has been removed from the physical custody of the child's parents 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.

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

g. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family or a court of competent jurisdiction in another state has entered an order involuntarily terminating parental rights with respect to another child who is a member of the same family.

(3) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.

(4) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

h. The court finds that all of the following have occurred:

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

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

(3) The child has been removed from the physical custody of the child's parents 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.

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

i. The court finds that all of the following have occurred:

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

(2) There is clear and convincing evidence that the abuse or neglect posed a significant risk to the life of the child or constituted imminent danger to the child.

(3) There is clear and convincing evidence that the offer or receipt of services would not correct the conditions which led to the abuse or neglect of the child within a reasonable period of time.

j. The court finds that both of the following have occurred:

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

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

k. The court finds that all of the following have occurred:

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

(2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.

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

l. The court finds that all of the following have occurred:

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

(2) The parent has a severe substance-related disorder and presents a danger to self or others as evidenced by prior acts.

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

m. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused or neglected as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused or neglected the child has been convicted of a felony and imprisoned for physically or sexually abusing or neglecting the child, the child's sibling, or any other child in the household.

n. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The parent has been convicted of child endangerment resulting in the death of the child's sibling, has been convicted of three or more acts of child endangerment involving the child, the child's sibling, or another child in the household, or has been convicted of child endangerment resulting in a serious injury to the child, the child's sibling, or another child in the household.

(3) There is clear and convincing evidence that the circumstances surrounding the parent's conviction for child endangerment would result in a finding of imminent danger to the child.

o. The parent has been convicted of a felony offense that is a sex offense against a minor as defined in section 692A.101, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

2. In considering whether to terminate the rights of a parent under this section, the court shall give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child. This consideration may include any of the following:

a. Whether the parent's ability to provide the needs of the child is affected by the parent's mental capacity or mental condition or the parent's imprisonment for a felony.

b. For a child who has been placed in foster family care by a court or has been voluntarily placed in foster family care by a parent or by another person, whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family, and whether the foster family is able and willing to permanently integrate the child into the foster family. In considering integration into a foster family, the court shall review the following:

(1) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining that environment and continuity for the child.

(2) The reasonable preference of the child, if the court determines that the child has sufficient capacity to express a reasonable preference.

c. The relevant testimony or written statement that a foster parent, relative, or other individual with whom the child has been placed for preadoptive care or other care has a right to provide to the court.

3. The court need not terminate the relationship between the parent and child if the court finds any of the following:

a. A relative has legal custody of the child.

b. The child is over ten years of age and objects to the termination.

c. There is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.

d. It is necessary to place the child in a hospital, facility, or institution for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.

e. The absence of a parent is due to the parent's admission or commitment to any institution, hospital, or health facility or due to active service in the state or federal armed forces.

[C79, §232.114; C81, §232.116]

84 Acts, ch 1279, §19, 20; 86 Acts, ch 1186, §11; 87 Acts, ch 159, §6; 89 Acts, ch 229, §7 – 12; 90 Acts, ch 1251, §28; 92 Acts, ch 1231, §27 – 29; 93 Acts, ch 76, §2; 94 Acts, ch 1174, §3, 22; 95 Acts, ch 182, §10, 11; 98 Acts, ch 1190, §23; 2001 Acts, ch 67, §9, 13; 2006 Acts, ch 1182, §59; 2007 Acts, ch 172, §14; 2008 Acts, ch 1098, §2; 2009 Acts, ch 119, §38; 2011 Acts, ch 121, §58, 62

Referred to in §232.57, 232.102, 232.111, 232.117

[T] 2011 amendment to subsection 1, paragraph l, subparagraph (2), takes effect July 1, 2012; 2011 Acts, ch 121, §62

[T] Subsection 1, paragraph l, subparagraph (2) amended

232.117 Termination — findings — disposition.

1. After the hearing is concluded the court shall make and file written findings.

2. If the court concludes that facts sufficient to terminate parental rights have not been established by clear and convincing evidence, the court shall dismiss the petition.

3. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence, the court may order parental rights terminated. If the court terminates the parental rights of the child's parents, the court shall transfer the guardianship and custody of the child to one of the following:

a. The department of human services.

b. A child-placing agency or other suitable private agency, facility or institution which is licensed or otherwise authorized by law to receive and provide care for the child.

c. A parent who does not have physical care of the child, other relative, or other suitable person.

4. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

5. If after a hearing the court does not order the termination of parental rights but finds that there is clear and convincing evidence that the child is a child in need of assistance, under section 232.2, subsection 6, due to the acts or omissions of one or both of the child's parents the court may adjudicate the child to be a child in need of assistance and may enter an order in accordance with the provisions of section 232.100, 232.101, 232.102, or 232.104.

6. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the guardian shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. Within forty-five days of receipt of the termination order, and every forty-five days thereafter until the court determines such reports are no longer necessary, the guardian shall report to the court regarding efforts made to place the child for adoption or providing the rationale as to why adoption would not be in the child's best interest.

7. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has not been placed for adoption shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed six months after the date of the termination of parental rights or the last placement review hearing.

8. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has been placed for adoption and whose adoption has not been finalized shall file a written report with the court every six months concerning the child's placement.

The court shall hold a hearing to review the placement at intervals not to exceed twelve months after the date of the adoptive placement or the last placement review hearing.

9. Hearings held under this division are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having a public hearing. Upon closing the hearing, the court may admit persons who have a direct interest in the case or in the work of the court.

10. If a termination of parental rights order is issued on the grounds that the child is a newborn infant whose parent has voluntarily released custody of the child under section 232.116, subsection 1, paragraph "*c*", the court shall retain jurisdiction to change a guardian or custodian and to allow a parent whose rights have been terminated to request vacation or appeal of the termination order which request must be made within thirty days of issuance of the granting of the termination order. The period for request for vacation or appeal by a parent whose rights have been terminated shall not be waived or extended and a vacation or appeal shall not be granted for a request made after the expiration of this period. The court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish the period of thirty days, which shall not be waived or extended, in which a parent whose parental rights have been terminated may request a vacation or appeal of such a termination order.

[C79, §232.115; C81, §232.117]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §21; 87 Acts, ch 159, §5, 7; 89 Acts, ch 229, §13; 89 Acts, ch 230, §19; 92 Acts, ch 1229, §6; 94 Acts, ch 1046, §3; 98 Acts, ch 1190, §24, 25; 2001 Acts, ch 67, §10, 13; 2004 Acts, ch 1116, §11

Referred to in §232.116, 232.118, 232.119, 232.133, 237.20

232.118 Removal of guardian.

1. Upon application of an interested party or upon the court's own motion, the court having jurisdiction of the child may, after notice to the parties and a hearing, remove a court-appointed guardian and appoint a guardian in accordance with the provisions of section 232.117, subsection 3.

2. A child fourteen years of age or older who has not been adopted but who is placed in a satisfactory foster home may, with the consent of the foster parents, join with the guardian appointed by the court in an application to the court to remove the existing guardian and appoint the foster parents as guardians of the child.

3. The authority of a guardian appointed by the court terminates when the child reaches the age of majority or is adopted.

[C79, §232.116; C81, §232.118]

88 Acts, ch 1134, §53

232.119 Adoption exchange established.

1. The purpose of this section is to facilitate the placement of all children in Iowa who are legally available for adoption through the establishment of an adoption exchange to help find adoptive homes for these children.

2. An adoption information exchange is established within the department to be operated by the department or by an individual or agency under contract with the department.

a. All special needs children under state guardianship shall be registered on the adoption exchange within sixty days of the termination of parental rights pursuant to section 232.117 or 600A.9 and assignment of guardianship to the director.

b. Prospective adoptive families requesting a special needs child shall be registered on the adoption exchange upon receipt of an approved home study.

3. To register a child on the Iowa exchange, the department adoption worker or the private agency worker shall register the pertinent information concerning the child on the exchange. A photo of the child and other necessary information shall be forwarded to the department to be included in the photo-listing book which shall be updated regularly. The department adoption worker or the private agency worker who places a child on the exchange shall

update the registration information within ten working days after a change in the information occurs.

4. The exchange shall include a matching service for children registered or listed in the adoption photo-listing book and prospective adoptive families listed on the exchange. The department shall register a child with the national electronic exchange and electronic photo-listing system if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

5. A request to defer registering the child on the exchange shall be submitted in writing and shall be granted if any of the following conditions exist:

a. The child is in an adoptive placement.

b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. A diagnostic study or testing is necessary to clarify the child's needs and to provide an adequate description of the child's needs.

d. At the time of the request, the child is receiving medical care, mental health treatment, or other treatment and the child's care or treatment provider has determined that meeting prospective adoptive parents is not in the child's best interest.

e. The child is fourteen years of age or older and will not consent to an adoption plan and the consequences of not being adopted have been explained to the child.

6. The following requirements apply to a request to defer registering a child on the adoption exchange under subsection 5:

a. For a deferral granted by the exchange pursuant to subsection 5, paragraph "*a*", "*b*", or "*e*", the child's guardian shall address the child's deferral status in the report filed with the court and the court shall review the deferral status in the six-month review hearings held pursuant to section 232.117, subsection 7.

b. In addition to the requirements of paragraph "*a*", a deferral granted by the exchange pursuant to subsection 5, paragraph "*b*", shall be limited to not more than a one-time, ninety-day period unless the termination of parental rights order is appealed or the child is placed in a hospital or other institutional placement. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral request under subsection 5, paragraph "*b*", may be granted until sixty days after the date of the final decision regarding the appeal or until the date the child is discharged from a hospital or other institutional placement.

c. A deferral granted by the exchange pursuant to subsection 5, paragraph "*c*", shall be limited to not more than a one-time, ninety-day period.

d. A deferral granted by the exchange pursuant to subsection 5, paragraph "*d*", shall be limited to not more than a one-time, one-hundred-twenty-day period.

87 Acts, ch 159, §8; 91 Acts, ch 232, §9, 10; 93 Acts, ch 22, §1; 95 Acts, ch 182, §12; 98 Acts, ch 1190, §26

232.120 Preadoptive care — continued placement.

If a foster parent is providing preadoptive care to a child for whom a termination of parental rights petition has been filed, the placement of the child with that foster parent shall continue through the termination of parental rights proceeding unless the court orders otherwise based upon the best interests of the child.

98 Acts, ch 1190, §27

232.121 Reserved.

DIVISION V

FAMILY IN NEED OF ASSISTANCE PROCEEDINGS

232.122 Jurisdiction.

The juvenile court shall have exclusive jurisdiction over family in need of assistance proceedings.

[C79, 81, §232.122]

Referred to in §232C.2, 232C.3

232.123 Venue.

Venue for family in need of assistance proceedings shall be determined in accordance with section 232.62.

[C79, 81, §232.123]

Referred to in §232C.2, 232C.3

232.124 Repealed by 83 Acts, ch 21, § 3; 83 Acts, ch 186, § 10201, 10203.

232.125 Petition.

1. A family in need of assistance proceeding shall be initiated by the filing of a petition alleging that a child and the child's parent, guardian, or custodian are a family in need of assistance.

2. Such a petition may be filed by the child's parent, guardian, or custodian, by the child, or on the court's own motion as provided in section 232C.2. The judge, county attorney, or juvenile court officer may authorize such parent, guardian, custodian, or child to file a petition with the clerk of the court without the payment of a filing fee.

3. The petition and subsequent court documents shall be entitled "In re the family of .....".

4. The petition shall state the names and residences of the child, and the child's living parents, guardian, custodian, and guardian ad litem, if any and the age of the child.

5. The petition shall allege that there has been a breakdown in the familial relationship and that the petitioner has sought services from public or private agencies to maintain and improve the familial relationship.

[C79, 81, §232.125]

83 Acts, ch 186, §10055, 10201; 2009 Acts, ch 153, §1

Referred to in §232.21, 232C.2, 232C.3

232.126 Appointment of counsel and guardian ad litem.

The court shall appoint counsel or a guardian ad litem to represent the interests of the child at the hearing to determine whether the family is a family in need of assistance unless the child already has such counsel or guardian. The court shall appoint counsel for the parent, guardian or custodian if that person desires but is financially unable to employ counsel.

The court may appoint a court appointed special advocate to act as guardian ad litem. The court appointed special advocate 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. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit reports to the court and the parties to the proceedings containing the information required in reports submitted by a court appointed special advocate under section 232.89, subsection 5. In addition, the court appointed special advocate shall file other reports to the court as required by the court.

[C79, 81, §232.126]

87 Acts, ch 121, §5; 2002 Acts, ch 1162, §18

Referred to in §232C.2, 232C.3

232.127 Hearing — adjudication — disposition.

1. Upon the filing of a petition, the court shall fix a time for a hearing and give notice thereof to the child and the child's parent, guardian or custodian.

2. A parent without custody may petition the court to be made a party to proceedings under this division.

3. The court shall exclude the general public from such hearing except the court in its discretion may admit persons having a legitimate interest in the case or the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. The court may adjudicate the family to be a family in need of assistance and enter an appropriate dispositional order if the court finds:

a. There has been a breakdown in the relationship between the child and the child's parent, guardian or custodian; and

b. The child or the child's parent, guardian or custodian has sought services from public or private agencies to maintain and improve the familial relationship; and

c. The court has at its disposal services for this purpose which can be made available to the family.

6. If the court makes such a finding the court may order any or all of the parties to accept counseling and to comply with any other reasonable orders designed to maintain and improve the familial relationship. At the conclusion of any counseling ordered by the court, or at any other time deemed necessary, the parties shall be required to meet together and be apprised of the findings and recommendations of such counseling. Such an order shall remain in force for a period not to exceed one year unless the court otherwise specifies or sooner terminates the order.

7. The court may not order the child placed on probation, in a foster home or in a nonsecure facility unless the child requests and agrees to such supervision or placement. In no event shall the court order the child placed in the state training school or other secure facility.

8. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

9. A child found in contempt of court because of violation of conditions imposed under this section shall not be considered delinquent. Such a contempt may be punished by imposition of a work assignment or assignments to benefit the state or a governmental subdivision of the state. In addition to or in lieu of such an assignment or assignments, the court may impose one of the dispositions set out in sections 232.100 to 232.102.

10. If the child is sixteen years of age or older and an order for an out-of-home placement is entered, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

11. If after hearing pursuant to this section, the court finds, by clear and convincing evidence, that no remedy is available that would result in strengthening or maintaining

the familial relationship, the court may order the minor emancipated pursuant to section 232C.3, subsection 4.

[C79, 81, §232.127; 82 Acts, ch 1260, §24]

92 Acts, ch 1229, §7; 2003 Acts, ch 117, §7; 2004 Acts, ch 1116, §12; 2009 Acts, ch 153, §2

Referred to in §232C.2, 232C.3

232.128 through 232.132 Reserved.

DIVISION VI

APPEAL

Referred to in §232.147

232.133 Appeal.

1. An interested party aggrieved by an order or decree of the juvenile court may appeal from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section 232.47, shall not be appealed until the court enters a corresponding dispositional order pursuant to section 232.52. An appeal that affects the custody of a child shall be heard at the earliest practicable time.

2. Except for appeals from orders entered in child in need of assistance proceedings or orders entered pursuant to section 232.117, appellate procedures shall be governed by the same provisions applicable to appeals from the district court. The supreme court may prescribe rules to expedite the resolution of appeals from orders entered in child in need of assistance proceedings or orders entered pursuant to section 232.117.

3. The pendency of an appeal or application therefor shall not suspend the order of the juvenile court regarding a child and shall not discharge the child from the custody of the court or the agency, association, facility, institution or person to whom the court has transferred legal custody unless the appellate court otherwise orders on application of an appellant.

4. If the appellate court does not dismiss the proceedings and discharge the child, the appellate court shall affirm or modify the order of the juvenile court and remand the child to the jurisdiction of the juvenile court for disposition not inconsistent with the appellate court's finding on the appeal.

[C66, 71, 73, 75, 77, §232.58; C79, 81, §232.133]

86 Acts, ch 1186, §12; 2001 Acts, ch 117, §1; 2003 Acts, ch 25, §1; 2006 Acts, ch 1129, §1; 2007 Acts, ch 126, §45

232.134 through 232.140 Reserved.

DIVISION VII

EXPENSES AND COSTS

232.141 Expenses.

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 subsections 2, 4, and 8. After giving the parent a reasonable opportunity to be heard, the court may order the parent 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.

2. All of the following juvenile court expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. Juvenile court expenses incurred by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child, including fees and expenses for foreign language interpreters, costs of depositions and transcripts, fees and mileage of witnesses, and the expenses of officers serving notices and subpoenas.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child in juvenile court.

c. Fees and expenses incurred by the juvenile court for foreign language interpreters for court proceedings.

3. Costs incurred under subsection 2 shall be paid as follows:

a. A county shall be required to pay for the fiscal year beginning July 1, 1989, an amount equal to the county's base cost for witness and mileage fees and attorney fees established pursuant to section 232.141, subsection 8, paragraph *"d"*, Code 1989, for the fiscal year beginning July 1, 1988, plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the federal bureau of labor statistics for the current year times the county's base cost.

b. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph *"a"* is the county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph *"a"*.

c. The county, on an annual basis, shall pay to the indigent defense fund created under section 815.11 the amount of the county's base cost as determined in accordance with this subsection.

d. Costs incurred under subsection 2 shall be paid by the state from the appropriations to the indigent defense fund under section 815.11 in accordance with this chapter, chapter 815, and the rules adopted by the state public defender. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in this subsection.

4. Upon certification of the court, all of the following expenses are a charge upon the state to the extent provided in subsection 5:

a. The expenses of transporting a child to or from a place designated by the court for the purpose of care or treatment.

b. Expenses for mental or physical examinations of a child if ordered by the court.

c. The expenses of care or treatment ordered by the court.

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

a. The 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 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 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 rule shall not be paid. However, if the court orders a service not currently listed in administrative rule, the department shall review the order and, if reimbursement for the service of the department is not in conflict with other law or administrative rule, and meets the criteria of subsection 4, the department shall reimburse the provider.

6. If a child is given physical or mental examinations or treatment relating to a child abuse assessment with the consent of the child's parent, guardian, or legal custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment,

the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

7. A county charged with the costs and expenses under subsections 2 and 3 may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which are payable as are other claims against the county. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under this section shall be settled pursuant to sections 252.22 and 252.23.

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, organized under a chapter 28E agreement, or operated by a private juvenile shelter care home. If the actual and allowable costs of a child's shelter care placement exceed 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. However, the maximum amount of the unpaid costs which may be recovered under this subsection is limited to the difference between the amount the department is authorized to pay and the statewide average of the actual and allowable rates in effect in May of the preceding fiscal year for reimbursement of juvenile shelter care homes. In no case shall the home be reimbursed for more than the home's actual and allowable costs. 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 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 225C.8.

[S13, §254-a25, -a45; C24, 27, 31, 35, 39, §**3644, 3645;** C46, 50, 54, 58, 62, §232.25, 232.26; C66, 71, 73, 75, 77, §232.51 – 232.53; C79, 81, §232.141; 82 Acts, ch 1260, §119]

85 Acts, ch 173, §14; 87 Acts, ch 152, §1; 88 Acts, ch 1134, §54; 89 Acts, ch 283, §23; 90 Acts, ch 1233, §8; 92 Acts, ch 1229, §8; 92 Acts, 1st Ex, ch 1004, §3; 93 Acts, ch 76, §15; 93 Acts, ch 172, §34; 97 Acts, ch 35, §12, 25; 97 Acts, ch 126, §31; 99 Acts, ch 135, §20, 21; 2000 Acts, ch 1115, §2 – 4; 2002 Acts, ch 1119, §147; 2004 Acts, ch 1090, §51; 2004 Acts, ch 1175, §148; 2006 Acts, ch 1041, §5, 6

Referred to in §232.11, 232.52, 232.89, 232.143, 234.8, 237.20, 331.401, 602.1302, 602.1303, 815.11

[SP] For future amendment to subsection 8, effective July 1, 2013, see 2012 Acts, ch 1120, §118, 130

232.142 Maintenance and cost of juvenile homes — fund.

1. County boards of supervisors which singly or in conjunction with one or more other counties provide and maintain juvenile detention and juvenile shelter care homes are subject to this section.

2. For the purpose of providing and maintaining a county or multicounty home, the board of supervisors of any county may issue general county purpose bonds in accordance with sections 331.441 to 331.449. Expenses for providing and maintaining a multicounty home shall be paid by the counties participating in a manner to be determined by the boards of supervisors.

3. A county or multicounty juvenile detention home approved pursuant to this section shall receive financial aid from the state in a manner approved by the director. Aid paid by the state shall be at least ten percent and not more than fifty percent of the total cost of the establishment, improvements, operation, and maintenance of the home.

4. The director shall adopt minimal rules and standards for the establishment, maintenance, and operation of such homes as shall be necessary to effect the purposes of this chapter. The rules shall apply the requirements of section 237.8, concerning employment and evaluation of persons with direct responsibility for a child or with access to a child when the child is alone and persons residing in a child foster care facility, to persons employed by, residing in, or volunteering for a home approved under this section. The director shall, upon request, give guidance and consultation in the establishment and administration of the homes and programs for the homes.

5. The director shall approve annually all such homes established and maintained under the provisions of this chapter. A home shall not be approved unless it complies with minimal

rules and standards adopted by the director and has been inspected by the department of inspections and appeals.

6. A juvenile detention home fund is created in the state treasury under the authority of the department. The fund shall consist of moneys deposited in the fund pursuant to sections 321.218A and 321A.32A. The moneys in the fund shall be used for the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in accordance with annual appropriations made by the general assembly from the fund for these purposes.

[S13, §254-a20, -a26, -a29, -a30; C24, 27, 31, 35, 39, §**3653 – 3655;** C46, 50, 54, 58, 62, §232.35 – 232.37; C66, 71, 73, 75, 77, §232.21 – 232.26; C79, 81, S81, §232.142; 81 Acts, ch 117, §1031]

83 Acts, ch 123, §91, 209; 88 Acts, ch 1134, §55; 90 Acts, ch 1204, §47; 90 Acts, ch 1239, §13; 91 Acts, ch 138, §4; 92 Acts, ch 1229, §9; 2001 Acts, ch 191, §38; 2011 Acts, ch 98, §7

Referred to in §232.69, 237.4, 321.210B, 321.218A, 321A.32A, 331.382, 709.16

232.143 Service area group foster care budget targets.

1. *a.* A statewide expenditure target for children in group foster care placements in a fiscal year, which placements are a charge upon or are paid for by the state, shall be established annually in an appropriation bill by the general assembly. Representatives of the department and juvenile court services shall jointly develop a formula for allocating a portion of the statewide expenditure target established by the general assembly to each of the department's service areas. The formula shall be based upon the service area's proportion of the state population of children and of the statewide usage of group foster care in the previous five completed fiscal years and upon other indicators of need. The expenditure amount determined in accordance with the formula shall be the group foster care budget target for that service area.

b. A service area may exceed the service area's budget target for group foster care by not more than five percent in a fiscal year, provided the overall funding allocated by the department for all child welfare services in the service area is not exceeded.

c. If all of the following circumstances are applicable, a service area may temporarily exceed the service area's budget target as necessary for placement of a child in group foster care:

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

(2) The court has entered a dispositional order for placement of the child in group foster care.

(3) The child is placed in a juvenile detention facility awaiting placement in group foster care.

d. If a child is placed pursuant to paragraph "*c*", causing a service area to temporarily exceed the service area's budget target, the department and juvenile court services shall examine the cases of the children placed in group foster care and counted in the service area's budget target at the time of the placement pursuant to paragraph "*c*". If the examination indicates it may be appropriate to terminate the placement for any of the cases, the department and juvenile court services shall initiate action to set a dispositional review hearing under this chapter for such cases. In such a dispositional review hearing, the court shall determine whether needed aftercare services are available following termination of the placement and whether termination of the placement is in the best interests of the child and the community.

2. For each of the department's service areas, representatives appointed by the department and juvenile court services shall establish a plan for containing the expenditures for children placed in group foster care ordered by the court within the budget target allocated to that service area pursuant to subsection 1. The plan shall be established in a manner so as to ensure the budget target amount will last the entire fiscal year. The plan shall include monthly targets and strategies for developing alternatives to group foster care placements in order to contain expenditures for child welfare services within the amount appropriated by the general assembly for that purpose. Funds for a child placed in group foster care shall be considered encumbered for the duration of the child's projected or

actual length of stay, whichever is applicable. Each service area plan shall be established within sixty days of the date by which the group foster care budget target for the service area is determined. To the extent possible, the department and juvenile court services shall coordinate the planning required under this subsection with planning for services paid under section 232.141, subsection 4. The department's service area manager shall communicate regularly, as specified in the service area plan, with the chief juvenile court officers within that service area concerning the current status of the service area plan's implementation.

3. State payment for group foster care placements shall be limited to those placements which are in accordance with the service area plans developed pursuant to subsection 2.

92 Acts, ch 1229, §10; 96 Acts, ch 1213, §35; 98 Acts, ch 1047, §22; 99 Acts, ch 111, §9; 2004 Acts, ch 1116, §13; 2007 Acts, ch 218, §115

Referred to in §232.52, 232.102, 232.117, 232.127, 234.35

[SP] Statewide expenditure target for group foster care maintenance and services for 2011-2012 and 2012-2013 fiscal years; 2011 Acts, ch 129, §15, 33, 128, 144, 156; 2012 Acts, ch 1133, §22

232.144 through 232.146 Reserved.

DIVISION VIII

RECORDS

Referred to in §232.48

232.147 Confidentiality of juvenile court records.

1. Juvenile court records shall be confidential. They shall not be inspected and their contents shall not be disclosed except as provided in this section.

2. Official juvenile court records in cases alleging delinquency, including complaints under section 232.28, shall be public records, subject to the following restrictions:

a. Official juvenile court records containing a petition or complaint alleging delinquency filed prior to January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150.

b. Official juvenile court records containing a petition or complaint alleging delinquency filed on or after January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150. The official records shall not be available to the public or any governmental agency through the internet or in an electronic customized data report unless the child has been adjudicated delinquent. However, the following shall have access to official juvenile court records through the internet or in an electronic customized data report prior to the child being adjudicated delinquent:

(1) The judge and professional court staff, including juvenile court officers.

(2) The child's counsel or guardian ad litem.

(3) The county attorney and the county attorney's assistants.

(4) A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

(5) A state or local law enforcement agency.

(6) The state public defender.

(7) The division of criminal and juvenile justice planning of the department of human rights.

c. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter.

d. Complaints under section 232.28 shall be released in accordance with section 915.25. Other official juvenile court records may be released under this section by a juvenile court officer.

3. Official juvenile court records in all cases except those alleging delinquency may be inspected and their contents shall be disclosed to the following without court order:

a. The judge and professional court staff, including juvenile court officers.

b. The child and the child's counsel.

c. The child's parent, guardian or custodian, court appointed special advocate, and guardian ad litem, and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19 who are assigning or reviewing the child's case.

d. The county attorney and the county attorney's assistants.

e. An agency, association, facility or institution which has custody of the child, or is legally responsible for the care, treatment or supervision of the child.

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

g. The child's foster parent or an individual providing preadoptive care to the child.

4. Official juvenile court records enumerated in section 232.2, subsection 38, paragraph "*e*", relating to paternity, support, or the termination of parental rights, shall be disclosed, upon request, to the child support recovery unit without court order.

5. Pursuant to court order official records may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

6. *a.* Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order or unless otherwise provided in this subsection or chapter.

b. If an informal adjustment of a complaint is made pursuant to section 232.29, the intake officer shall disclose to the victim of the delinquent act, upon the request of the victim, the name and address of the child who committed the delinquent act.

7. Social records prior to adjudication may be disclosed without court order to the superintendent or superintendent's designee of a school district, authorities in charge of an accredited nonpublic school, or any other state or local agency that is part of the juvenile justice system, in accordance with an interagency agreement established under section 280.25. The disclosure shall only include identifying information that is necessary to fulfill the purpose of the disclosure. The social records disclosed shall be used solely for the purpose of determining the programs and services appropriate to the needs of the child or the family of the child and shall not be disclosed for any other purpose unless otherwise provided by law.

8. All juvenile court records shall be made available for inspection and their contents shall be disclosed to any party to the case and the party's counsel and to any trial or appellate court in connection with an appeal pursuant to division VI of this chapter.

9. The clerk of the district court shall enter information from the juvenile record on the judgment docket and lien index, but only as necessary to record support judgments.

10. The state agency designated to enforce support obligations may release information as necessary in order to meet statutory responsibilities.

11. Release of official juvenile court records to a victim of a delinquent act is subject to the provisions of section 915.24, notwithstanding contrary provisions of this chapter.

[C66, 71, 73, 75, 77, §232.54, 232.57; C79, 81, §232.147; 82 Acts, ch 1209, §16]

83 Acts, ch 186, §10057, 10201; 84 Acts, ch 1208, §2; 90 Acts, ch 1271, §1508; 92 Acts, ch 1195, §301; 93 Acts, ch 172, §35, 56; 95 Acts, ch 191, §15; 96 Acts, ch 1110, §3; 97 Acts, ch 164, §4; 98 Acts, ch 1090, §63, 83, 84; 2000 Acts, ch 1123, §2; 2001 Acts, ch 79, §1; 2005 Acts, ch 55, §2; 2006 Acts, ch 1164, §1; 2006 Acts, ch 1185, §76; 2009 Acts, ch 41, §263

Referred to in §135L.3, 216A.136, 228.6, 232.19, 232.91, 232.104, 232.149A, 232.150, 232.151, 232C.4, 235A.17, 280.25, 692A.121, 915.10A, 915.25

232.148 Fingerprints — photographs.

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal or juvenile justice agency after the child is taken into custody.

2. Fingerprints of a child who has been taken into custody shall be taken and filed by

a criminal or juvenile justice agency investigating the commission of a public offense other than a simple misdemeanor. In addition, photographs of a child who has been taken into custody may be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple misdemeanor. The criminal or juvenile justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system and may also retain a copy of the fingerprint card for comparison with latent fingerprints and the identification of repeat offenders.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive, the fingerprint card and other copies of the fingerprints taken shall be delivered to the division of criminal investigation of the department of public safety in the manner and on the forms prescribed by the commissioner of public safety within two working days after the fingerprints are taken. After notification by the child or the child's representative that the child has not had a delinquency petition filed against the child or has not entered into an informal adjustment agreement, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

4. Fingerprint and photograph files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

5. Fingerprints and photographs of a child shall be removed from the file and destroyed upon notification by the child's guardian ad litem or legal counsel to the department of public safety that either of the following situations apply:

a. A petition alleging the child to be delinquent is not filed and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question, or the child has not been placed on youthful offender status.

[C79, 81, §232.148; 82 Acts, ch 1209, §17]

94 Acts, ch 1172, §25; 95 Acts, ch 67, §17; 95 Acts, ch 191, §16, 17; 96 Acts, ch 1034, §11; 97 Acts, ch 126, §32, 33; 98 Acts, ch 1100, §26; 99 Acts, ch 37, §1

Referred to in §216A.136, 232.91, 232.151, 232C.4, 692.15, 692A.121, 726.23

[P] See also §690.2, 690.4, and 726.23

232.149 Records of criminal or juvenile justice agencies.

1. The taking of a child into custody under the provisions of section 232.19 shall not be considered an arrest.

2. Records and files of a criminal or juvenile justice agency concerning a child involved in a delinquent act are public records, except that release of criminal history data, intelligence data, and law enforcement investigatory files is subject to the provisions of section 22.7 and chapter 692, and juvenile court social records, as defined in section 232.2, subsection 31, shall be deemed confidential criminal identification files under section 22.7, subsection 9. The records are subject to sealing under section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

3. Notwithstanding subsection 2, if a juvenile who has been placed in detention under section 232.22 escapes from the facility, the criminal or juvenile justice agency may release the name of the juvenile, the facts surrounding the escape, and the offense or alleged offense which resulted in the placement of the juvenile in the facility.

[C66, 71, 73, 75, 77, §232.15; C79, 81, §232.149]

83 Acts, ch 186, §10057, 10201; 85 Acts, ch 173, §15; 94 Acts, ch 1172, §26; 95 Acts, ch 191, § 18, 19; 97 Acts, ch 126, §34, 35

Referred to in §216A.136, 232.91, 232.149A, 232.150, 232.151, 232C.4, 692A.121

232.149A Confidentiality orders.

1. Notwithstanding any other provision of the Code to the contrary, upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court after hearing, shall order official juvenile court records in the case to be kept confidential and no longer public records under sections 232.147 and 232.149, if the court finds both of the following apply:

a. The case has been dismissed and the person is no longer subject to the jurisdiction of the juvenile court.

b. Making the records confidential is in the best interests of the person and the public.

2. The records subject to a confidentiality order may be sealed at a later date if section 232.150 applies.

3. Official juvenile court records subject to a confidentiality order may be inspected and their contents shall be disclosed to the following without court order:

a. The judge and professional court staff, including juvenile court officers.

b. The child and the child's counsel.

c. The child's parent, guardian or custodian, court appointed special advocate, and guardian ad litem, and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19 who are assigning or reviewing the child's case.

d. The county attorney and the county attorney's assistants.

e. An agency, association, facility, or institution which has custody of the child, or is legally responsible for the care, treatment, or supervision of the child, including but not limited to the department of human services.

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who had been the subject of a juvenile court proceeding.

g. The child's foster parent or an individual providing preadoptive care to the child.

h. A state or local law enforcement agency.

i. The state public defender.

4. If the child has been discharged from the jurisdiction of the juvenile court due to reaching the age of eighteen and restitution remains unpaid, the name of the court, the title of the action, and the court's file number shall not be kept confidential, and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid.

5. Pursuant to court order, official juvenile court records subject to a confidentiality order may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

2006 Acts, ch 1164, §2; 2006 Acts, ch 1185, §77

Referred to in §216A.136, 232.91, 232.147, 232.151, 232C.4, 692A.121

232.150 Sealing of records.

1. *a.* Upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court, after hearing, shall order the official juvenile court records in the case including those specified in sections 232.147 and 232.149 sealed if the court finds all of the following:

(1) The person is eighteen years of age or older and two years have elapsed since the last official action in the person's case.

(2) The person has not been subsequently convicted of a felony or an aggravated or serious misdemeanor or adjudicated a delinquent child for an act which if committed by an adult would be a felony, an aggravated misdemeanor, or a serious misdemeanor and no proceeding is pending seeking such conviction or adjudication.

(3) The person was not placed on youthful offender status, transferred back to district court after the youthful offender's eighteenth birthday, and sentenced for the offense which precipitated the youthful offender placement.

b. If the person was adjudicated delinquent for an offense which if committed by an adult would be an aggravated misdemeanor or a felony, the court shall not order the records in the case sealed unless, upon application of the person or upon the court's own motion and after hearing, the court finds that paragraph "*a*", subparagraphs (1) and (2), apply and that the sealing is in the best interests of the person and the public.

c. If the person is required to pay monetary restitution to a victim due to a delinquent act and the restitution is unpaid, the records in the case may be sealed, but the name of the court, the title of the action, and the court's file number shall remain unsealed as provided in section 910.10 and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid in full.

2. Reasonable notice of the hearing shall be given to the person who is the subject of the records named in the motion, the county attorney, and the agencies having custody of the records named in the application or motion.

3. Notice and copies of a sealing order shall be sent to each agency or person having custody or the records named therein.

4. On entry of a sealing order:

a. All agencies and persons having custody of records which are named therein, shall send such records to the court issuing the order.

b. All index references to sealed records shall be deleted.

5. The sealed records shall no longer be deemed to exist as a matter of law, and the juvenile court and any other agency or person who received notice and a copy of the sealing order shall reply to an inquiry that no such records exist, except when such reply is made to an inquiry pursuant to subsection 6.

6. Inspection of sealed records and disclosure of their contents thereafter may be permitted only pursuant to an order of the court upon application of the person who is the subject of such records except that the court in its discretion may permit reports to be inspected by or their contents to be disclosed for research purposes to a person conducting bona fide research under whatever conditions the court deems proper.

[C79, 81, §232.150; 82 Acts, ch 1209, §18]

97 Acts, ch 126, §36; 2006 Acts, ch 1164, §3

Referred to in §216A.136, 232.55, 232.91, 232.147, 232.149, 232.149A, 232.151, 232C.4, 692A.101, 692A.121

232.151 Criminal penalties.

Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from the records concerning a child referred to in sections 232.147 to 232.150 except as provided by those sections shall be guilty of a serious misdemeanor.

[C79, 81, §232.151]

Referred to in §216A.136, 232.91, 232C.4, 692A.121

232.152 Rules of juvenile procedure.

Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

[C79, 81, §232.152]

83 Acts, ch 186, §10058, 10201

Referred to in §216A.136

[P] Rules adopted by the Supreme Court are published in the compilation "Iowa Court Rules"

232.153 Applicability of this chapter prior to its effective date.

1. Except as provided in subsections 2 and 3 of this section, this chapter does not apply to juvenile court cases brought prior to July 1, 1979 or to acts committed prior to July 1, 1979 which would otherwise bring a child or a child's parent, guardian or custodian within the jurisdiction of the juvenile court pursuant to this chapter.

2. In a case pending on or commenced after July 1, 1979, involving acts committed prior to July 1, 1979, upon the request of any party and the approval of the court:

a. Procedural provisions of this chapter shall apply insofar as they are justly applicable.

b. The court may order a disposition of the case pursuant to the provisions of this chapter.

3. Provisions of this chapter governing the termination, modification or vacation of a dispositional order shall apply to persons to whom a dispositional order has been issued for acts committed prior to July 1, 1979, except that the maximum length of the order and the severity of the disposition shall not be increased. The provisions of this chapter shall not affect the substantive or procedural validity of a judgment entered before July 1, 1979, regardless of the fact that appeal time has not run or that an appeal is pending.

[C81, §232.153]

Referred to in §216A.136

232.154 through 232.157 Reserved.

DIVISION IX

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

232.158 Interstate compact on placement of children.

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

1. *Article I — Purpose and policy.* It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

a. Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

b. The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

c. The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

d. Appropriate jurisdictional arrangements for the care of children will be promoted.

2. *Article II — Definitions.* As used in this compact:

a. *"Child"* means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

b. *"Sending agency"* means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

c. *"Receiving state"* means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

d. *"Placement"* means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution, but not in an institution caring for the mentally ill, mentally defective, or epileptic, in an institution primarily educational in character, or in a hospital or other medical facility.

3. *Article III — Conditions for placement.*

a. A sending agency shall not send, bring, or cause to be sent or brought into any other party state a child for placement in foster care or as a preliminary to a possible adoption unless the sending agency complies with every requirement set forth in this article and with

the applicable laws of the receiving state governing the placement of children in the receiving state.

b. Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

c. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph *"b"* of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

d. The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

4. *Article IV — Penalty for illegal placement.* The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

5. *Article V — Retention of jurisdiction.*

a. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

b. When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

c. Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph *"a"* hereof.

6. *Article VI — Institutional care of delinquent children.* A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to the child being sent to such other party jurisdiction for institutional care and the court finds that:

a. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

b. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

7. *Article VII — Compact administrator.* The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in the officer's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

8. *Article VIII — Limitations.* This compact shall not apply to:

a. The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

b. Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

9. *Article IX — Enactment and withdrawal.* This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

10. *Article X — Construction and severability.* The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[S13, §3260-1; C24, §3672, 3675; C27, 31, 35, §3661-a90, -a93, -a95, -a96; C39, §**3661.104, 3661.107, 3661.109, 3661.110;** C46, 50, 54, 58, 62, 66, §238.33, 238.36, 238.38, 238.39; C71, 73, 75, 77, 79, 81, §238.33]

85 Acts, ch 173, §21 – 23, 30

CS85, §232.158

2008 Acts, ch 1032, §201

Referred to in §232.159, 232.160, 232.161, 232.162, 232.163, 232.164, 232.165, 232.166, 232.167

232.158A Legal risk placement.

1. Notwithstanding any provision of the interstate compact on the placement of children to the contrary, the department of human services shall permit the legal risk placement of a child under the interstate compact on the placement of children if the prospective adoptive parent provides a legal risk statement, in writing, acknowledging all of the following:

a. That the placement is a legal risk placement.

b. That the court of the party state of the sending agency retains jurisdiction over the child for purposes of the termination of the parental rights of the biological parents.

c. That if termination of parental rights cannot be accomplished in accordance with applicable laws, the child shall be promptly returned to the party state of the sending agency

to be returned to the child's biological parent or placed as deemed appropriate by a court of the party state of the sending agency.

d. That the prospective adoptive parent assumes full legal, financial, and other risks associated with the legal risk placement and that the prospective adoptive parent agrees to hold the department of human services harmless for any disruption or failure of the placement.

e. That the prospective adoptive parent shall provide support and medical and other appropriate care to the child pending the termination of parental rights of the biological parents and shall assume liability for all costs associated with the return of the child to the party state of the sending agency if the placement is disrupted or fails.

2. Any written legal risk statement utilized in establishing a legal risk placement shall, at a minimum, state all of the information required under subsection 1, shall be signed by any prospective adoptive parent, and shall be notarized. The legal risk statement shall also contain the following notice printed in clearly legible type: If termination of parental rights is not accomplished and return of the child to the biological parent is required, the prospective adoptive parents are encouraged to seek mental health counseling to address any resulting psychological or family problems.

3. For the purposes of this section, "*legal risk placement*" means the placement of a child, who is to be adopted, with a prospective adoptive parent prior to the termination of parental rights of the biological parents, under which the prospective adoptive parent assumes the risk that if the parental rights of the biological parents are not terminated the child shall be returned to the biological parents or placed as deemed appropriate by a court of the party state of the sending agency, and under which the prospective adoptive parent assumes other risks and liabilities specified in a written agreement.

2001 Acts, ch 57, §1
Referred to in §232.166, 232.167

232.159 Financial responsibility.

Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children under section 232.158 shall be determined in accordance with the provisions of article V of that interstate compact in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of chapters 252 and 252A, fixing responsibility for the support of children also may be invoked.

[C71, 73, 75, 77, 79, 81, §238.34]
85 Acts, ch 173, §30
CS85, §232.159
2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.160 Department of human services as public authority.

The "*appropriate public authorities*" as used in article III of the interstate compact on the placement of children under section 232.158 shall, with reference to this state, mean the state department of human services and said department shall receive and act with reference to notices required by article III of that interstate compact.

[C71, 73, 75, 77, 79, 81, §238.35]
83 Acts, ch 96, §157, 159
85 Acts, ch 173, §30
CS85, §232.160
2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.161 Department as authority in receiving state.

As used in paragraph *"a"* of article V of the interstate compact on the placement of children under section 232.158, the phrase *"appropriate authority in the receiving state"* with reference to this state shall mean the state department of human services.

[C71, 73, 75, 77, 79, 81, §238.36]
83 Acts, ch 96, §157, 159
85 Acts, ch 173, §30
CS85, §232.161
2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.162 Authority to enter agreements.

The officers and agencies of this state and its subdivisions having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph *"b"* of article V of the interstate compact on the placement of children under section 232.158. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or a subdivision or agency of this state shall not be binding unless it has the approval in writing of the administrator of child and family services in the case of the state and the county general assistance director in the case of a subdivision of the state.

[C71, 73, 75, 77, 79, 81, §238.37]
85 Acts, ch 173, §30
CS85, §232.162
92 Acts, ch 1212, §8; 2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.163 Visitation, inspection, or supervision.

1. Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under the provisions of this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision of this state as contemplated by paragraph *"b"* of article V of the interstate compact on the placement of children contained in section 232.158.

2. If a child is placed outside the residency state of the child's parent, the sending agency shall provide for a designee to visit the child at least once every twelve months and to submit a written report to the court concerning the child and the visit.

[C71, 73, 75, 77, 79, 81, §238.38]
85 Acts, ch 173, §30
CS85, §232.163
97 Acts, ch 99, §6; 98 Acts, ch 1100, §27; 2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.164 Court authority to place child in another state.

Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to article VI of the interstate compact on the placement of children, section 232.158, and shall retain jurisdiction as provided in article V of that interstate compact.

[C71, 73, 75, 77, 79, 81, §238.39]
85 Acts, ch 173, §30
CS85, §232.164
2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.165 Executive head.

As used in article VII of the interstate compact on the placement of children, section 232.158, the term *"executive head"* means the governor. The governor is hereby authorized

to appoint a compact administrator in accordance with the terms of article VII of that interstate compact.

[C71, 73, 75, 77, 79, 81, §238.40]
85 Acts, ch 173, §30
CS85, §232.165
2008 Acts, ch 1032, §201
Referred to in §232.166, 232.167

232.166 Statutes not affected.

Nothing contained in sections 232.158 to 232.165 shall be deemed to affect or modify the other provisions of this chapter or of chapter 600.

[C71, 73, 75, 77, 79, 81, §238.41]
85 Acts, ch 173, §30
CS85, §232.166
Referred to in §232.167

232.167 Penalty.

A person or agency which violates or aids and abets in the violation of any of the provisions of sections 232.158 through 232.166 commits a fraudulent practice.

88 Acts, ch 1249, §15

232.168 Attorney general to enforce.

The attorney general may, on the attorney general's own initiative, institute any criminal and civil actions and proceedings under this division, at whatever stage of placement necessary, to enforce the interstate compact on the placement of children, including, but not limited to, seeking enforcement of the provisions of the compact through the courts of a party state. The department of human services shall cooperate with the attorney general and shall refer any placement or proposed placement to the attorney general which may require enforcement measures.

94 Acts, ch 1174, §4

232.169 and 232.170 Reserved.

DIVISION X

INTERSTATE JUVENILE COMPACTS

232.171 Interstate compact on juveniles.

The state of Iowa through its courts and agencies is hereby authorized to enter into interstate compacts on juveniles in behalf of this state with any other contracting state which legally joins therein in substantially the following form and the contracting states solemnly agree:

1. *Article I — Findings and purposes.* That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

a. Cooperative supervision of delinquent juveniles on probation or parole;

b. The return, from one state to another, of delinquent juveniles who have escaped or absconded;

c. The return, from one state to another, of nondelinquent juveniles who have run away from home; and

d. Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected

or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

2. *Article II — Existing rights and remedies.* That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

3. *Article III — Definitions.* That, for the purposes of this compact, *"delinquent juvenile"* means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; *"probation or parole"* means any kind of conditional release of juveniles authorized under the laws of the states party hereto; *"court"* means any court having jurisdiction over delinquent, neglected or dependent children; *"state"* means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and *"residence"* or any variant thereof means a place at which a home or regular place of abode is maintained.

4. *Article IV — Return of runaways.*

a. (1) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for the juvenile's return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of the juvenile's running away, the juvenile's location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering the juvenile's own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel the juvenile's return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, the judge shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to the juvenile's legal custody, and that it is in the best interest and for the protection of such juvenile that the juvenile be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing the officer or person to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered

over to the officer whom the court demanding the juvenile shall have appointed to receive the juvenile, unless the juvenile shall first be taken forthwith before a judge of a court in the state, who shall inform the juvenile of the demand made for the juvenile's return, and who may appoint counsel or guardian ad litem for the juvenile. If the judge of such court shall find that the requisition is in order, the judge shall deliver such juvenile over to the officer whom the court demanding the juvenile shall have appointed to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

(2) Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to the juvenile's legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for the person's own protection and welfare, for such a time not exceeding ninety days as will enable the person's return to another state party to this compact pursuant to a requisition for the person's return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein the juvenile is found any criminal charge, or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in such state, or if the juvenile is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon the juvenile's return to the state from which the juvenile ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

b. That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

c. That *"juvenile"* as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

5. *Article V — Return of escapees and absconders.*

a. (1) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody the delinquent juvenile has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a delinquent juvenile, the circumstances of the breach of the terms of the juvenile's probation or parole or of the juvenile's escape from an institution or agency vested with the juvenile's legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing the officer or person to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom

the appropriate person or authority demanding the juvenile shall have appointed to receive the juvenile, unless the juvenile shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform the juvenile of the demand made for the juvenile's return and who may appoint counsel or guardian ad litem for the juvenile. If the judge of such court shall find that the requisition is in order, the judge shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding the juvenile shall have appointed to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

(2) Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with the person's legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, the person must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable the person's detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with the juvenile's legal custody or supervision, there is pending in the state wherein the juvenile is detained any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in such state, or if the juvenile is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon the juvenile's return to the state from which the juvenile escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

b. That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

6. *Article VI — Voluntary return procedure.* That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with the juvenile's legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of article IV, paragraph *"a"*, or of article V, paragraph *"a"*, may consent to the juvenile's immediate return to the state from which the juvenile absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, consent to the juvenile's return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of the juvenile's rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver the juvenile to the duly accredited officer or officers of the state demanding the juvenile's return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order the juvenile to return unaccompanied to such state and shall provide the juvenile with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

7. *Article VII — Cooperative supervision of probationers and parolees.*

a. That the duly constituted judicial and administrative authorities of a state party to this compact, herein called *"sending state"*, may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact, herein called *"receiving state"*, while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

b. That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

c. That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against the juvenile within the receiving state any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for any act committed in such state, or if the juvenile is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

d. That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

8. *Article VIII — Responsibility for costs.*

a. That the provisions of article IV, paragraph *"b"*, article V, paragraph *"b"*, and article VII, paragraph *"d"* of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

b. That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to article IV, paragraph *"b"*, article V, paragraph *"b"*, or article VII, paragraph *"d"* of this compact.

9. *Article IX — Detention practices.* That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

10. *Article X — Supplementary agreements.* That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of

delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

a. Provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;

b. Provide that the delinquent juvenile shall be given a court hearing prior to the juvenile being sent to another state for care, treatment and custody;

c. Provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

d. Provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;

e. Provide for reasonable inspection of such institutions by the sending state;

f. Provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to the juvenile being sent to another state; and

g. Make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

11. *Article XI — Acceptance of federal and other aid.* That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

12. *Article XII — Compact administrators.* That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

13. *Article XIII — Execution of compact.* That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

14. *Article XIV — Renunciation.* That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present article.

15. *Article XV — Rendition amendment.*

a. This article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

b. All provisions and procedures of articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

16. *Out-of-state confinement amendment.*

a. Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

b. Escapees and absconders who would otherwise be returned pursuant to article V of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such article shall be made and furnished, but in place of the demand pursuant to article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

c. The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

d. As used in this amendment:

(1) *"Sending state"* means sending state as that term is used in article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of article V of the compact.

(2) *"Receiving state"* means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

e. Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "compact institution" and shall confine persons therein as provided in paragraph *"a"* hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "compact institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

f. Persons confined in "compact institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "compact institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge or for any purpose permitted by the laws of the sending state.

g. All persons who may be confined in a "compact institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if the delinquent had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled, prior to confinement or reconfinement, by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

h. Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

i. This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment

may be promulgated by the appropriate officers of those states which have enacted this amendment.

[C62, 66, 71, 73, 75, 77, §231.14; C79, 81, §232.139]
85 Acts, ch 182, §1
CS85, §232.171
2008 Acts, ch 1032, §201
Referred to in §232.172
[SP] See §232.172 for limitations on applicability of this section

232.172 Confinement of delinquent juvenile.

1. For a juvenile under the jurisdiction of this state who is subject to the interstate compact for juveniles under section 232.173, the confinement of the juvenile in an institution located within another compacting state shall be as provided under the compact.

2. This subsection applies to the confinement of a delinquent juvenile under the jurisdiction of this state in an institution located within a noncompacting state, as defined in section 232.173, that entered into the interstate compact on juveniles under section 232.171. In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of the delinquent juvenile, such authorities may, pursuant to the out-of-state confinement amendment to the interstate compact on juveniles in section 232.171, confine or order the confinement of the delinquent juvenile in a compact institution within another party state.

[C66, 71, 73, 75, 77, §231.15; C79, 81, §232.140]
CS85, §232.172
2010 Acts, ch 1192, §75; 2011 Acts, ch 34, §58

232.173 Interstate compact for juveniles.

1. *Article I — Purpose.*

a. The compacting states to this interstate compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. § 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

b. It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(1) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state.

(2) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected.

(3) Return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return.

(4) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services.

(5) Provide for the effective tracking and supervision of juveniles.

(6) Equitably allocate the costs, benefits, and obligations of the compacting states.

(7) Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders.

(8) Insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines.

(9) Establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact.

(10) Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators.

(11) Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance.

(12) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity.

(13) Coordinate the implementation and operation of the compact with the interstate compact for the placement of children, the interstate compact for adult offender supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

c. It is the policy of the compacting states that the activities conducted by the interstate commission created in this compact are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

2. *Article II — Definitions.* As used in this compact, unless the context clearly requires a different construction:

a. *"Bylaws"* means those bylaws established by the interstate commission for its governance, or for directing or controlling its actions or conduct.

b. *"Compact administrator"* means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

c. *"Compacting state"* means any state which has enacted the enabling legislation for this compact.

d. *"Commissioner"* means the voting representative of each compacting state appointed pursuant to article III of this compact.

e. *"Court"* means any court having jurisdiction over delinquent, neglected, or dependent children.

f. *"Deputy compact administrator"* means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

g. *"Interstate commission"* means the interstate commission for juveniles created by article III of this compact.

h. *"Juvenile"* means any person defined as a juvenile in any member state or by the rules of the interstate commission, including persons who are any of the following:

(1) An accused delinquent, meaning a person charged with an offense that, if committed by an adult, would be a criminal offense.

(2) An adjudicated delinquent, meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense.

(3) An accused status offender, meaning a person charged with an offense that would not be a criminal offense if committed by an adult.

(4) An adjudicated status offender, meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult.

(5) A nonoffender, meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

i. *"Noncompacting state"* means any state which has not enacted the enabling legislation for this compact.

j. *"Probation or parole"* means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

k. *"Rule"* means a written statement by the interstate commission promulgated pursuant to article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

l. *"State"* means a state of the United States, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

3. *Article III — Interstate commission for juveniles.*

a. The compacting states hereby create the interstate commission for juveniles. The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth in this compact, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The interstate commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision created in this compact. The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the interstate commission in such capacity under or pursuant to the applicable law of the compacting state.

c. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, interstate compact for adult offender supervision, interstate compact for the placement of children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the interstate commission shall be ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional ex officio, nonvoting members, including members of other national organizations, in such numbers as shall be determined by the commission.

d. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

e. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

f. The interstate commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and interstate commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and perform such other duties as directed by the interstate commission or set forth in the bylaws.

g. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

h. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to

the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

i. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the interstate commission's internal personnel practices and procedures.

(2) Disclose matters specifically exempted from disclosure by statute.

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential.

(4) Involve accusing any person of a crime, or formally censuring any person.

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Disclose investigative records compiled for law enforcement purposes.

(7) Disclose information contained in or related to an examination or operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity.

(8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity.

(9) Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

j. For every meeting closed pursuant to this provision, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

k. The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

4. *Article IV — Powers and duties of the interstate commission.* The commission shall have the following powers and duties:

a. To provide for dispute resolution among compacting states.

b. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

c. To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission.

d. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

e. To establish and maintain offices which shall be located within one or more of the compacting states.

f. To purchase and maintain insurance and bonds.

g. To borrow, accept, hire, or contract for services of personnel.

h. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including but not limited to an executive committee as required

by article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

m. To establish a budget and make expenditures and levy dues as provided in article VIII of this compact.

n. To sue and be sued.

o. To adopt a seal and bylaws governing the management and operation of the interstate commission.

p. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

r. To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

s. To establish uniform standards of the reporting, collecting, and exchanging of data.

t. The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

5. *Article V — Organization and operation of the interstate commission.*

a. Bylaws. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to all of the following:

(1) Establishing the fiscal year of the interstate commission.

(2) Establishing an executive committee and such other committees as may be necessary.

(3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the interstate commission.

(4) Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting.

(5) Establishing the titles and responsibilities of the officers of the interstate commission.

(6) Providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

(7) Providing "start-up" rules for initial administration of the compact.

(8) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

b. Officers and staff.

(1) The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(2) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the interstate commission.

c. Immunity, defense, and indemnification.

(1) The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this subparagraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The interstate commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The interstate commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

6. *Article VI — Rulemaking functions of the interstate commission.*

a. The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

b. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the model state administrative procedures Act, 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the interstate commission deems appropriate consistent with due process requirements under the Constitution of the United States as now or hereafter interpreted by the United States supreme court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

c. When promulgating a rule, the interstate commission shall, at a minimum, do all of the following:

(1) Publish the proposed rule's entire text stating the reasons for that proposed rule.

(2) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available.

(3) Provide an opportunity for an informal hearing if petitioned by ten or more persons.

(4) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

d. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this lettered paragraph, evidence is substantial if it would be considered substantial evidence under the model state administrative procedures Act.

e. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

f. The existing rules governing the operation of the interstate compact on juveniles superseded by this compact shall be null and void twelve months after the first meeting of the interstate commission created hereunder.

g. Upon determination by the interstate commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety days after the effective date of the emergency rule.

7. *Article VII — Oversight, enforcement, and dispute resolution by the interstate commission.*

a. Oversight.

(1) The interstate commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

b. Dispute resolution.

(1) The compacting states shall report to the interstate commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

(2) The interstate commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in article XI of this compact.

8. *Article VIII — Finance.*

a. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

b. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate

commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

c. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

d. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

9. *Article IX — The state council.* Each member state shall create a state council for interstate juvenile supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in interstate commission activities and other duties as may be determined by that state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

10. *Article X — Compacting states, effective date, and amendment.*

a. Any state, the District of Columbia, or its designee, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in article II of this compact is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

c. The interstate commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

11. *Article XI — Withdrawal, default, termination, and judicial enforcement.*

a. Withdrawal.

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

b. Technical assistance, fines, suspension, termination, and default.

(1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(a) Remedial training and technical assistance as directed by the interstate commission.

(b) Alternative dispute resolution.

(c) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission.

(d) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws or duly promulgated rules, and any other grounds designated in commission bylaws and rules.

(3) The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(4) Within sixty days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

(5) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(6) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(7) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

c. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

d. Dissolution of compact.

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

12. *Article XII — Severability and construction.*

a. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

b. The provisions of this compact shall be liberally construed to effectuate its purposes.

13. *Article XIII — Binding effect of compact and other laws.*

a. Other laws.

(1) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

b. Binding effect of the compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

(2) All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

2010 Acts, ch 1192, §76

Referred to in §232.2, 232.172

232.174 Reserved.

DIVISION XI

VOLUNTARY FOSTER CARE PLACEMENT

232.175 Placement oversight.

Placement oversight shall be provided pursuant to this division when the parent, guardian, or custodian of a child with an intellectual disability or other developmental disability requests placement of the child in foster family care for a period of more than thirty days. The oversight shall be provided through review of the placement every six months by the department's foster care review committees or by a local citizen foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed twelve months. It is the purpose and policy of this division to ensure the existence of oversight safeguards as required by the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

89 Acts, ch 169, §2; 92 Acts, ch 1141, §2; 92 Acts, ch 1229, §11; 97 Acts, ch 99, §7; 99 Acts, ch 111, §1, 7; 2012 Acts, ch 1019, §87

[T] Section amended

232.176 Jurisdiction.

The court shall have exclusive jurisdiction over voluntary placement proceedings.

89 Acts, ch 169, §3

232.177 Venue.

Venue for voluntary placement proceedings shall be determined in accordance with section 232.62.

89 Acts, ch 169, §4

232.178 Petition.

1. For a placement initiated on or after July 1, 1992, the department shall file a petition to initiate a voluntary placement proceeding prior to the child's placement in accordance with

criteria established pursuant to the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 627(a). For a placement initiated before July 1, 1992, the department shall file a petition to approve placement on or before September 1, 1992.

2. The petition and subsequent court documents shall be entitled "In the interests of ....., a child".

3. The petition shall state the names and residence of the child and the child's living parents, guardian, custodian, and guardian ad litem, if any, and the age of the child.

4. The petition shall describe the child's emotional, physical, or intellectual disability which requires care and treatment; the reasonable efforts to maintain the child in the child's home; the department's request to the family of a child with an intellectual disability, other developmental disability, or organic mental illness to determine if any services or support provided to the family will enable the family to continue to care for the child in the child's home; and the reason the child's parent, guardian, or custodian has requested a foster family care placement. The petition shall also describe the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the case permanency plan and how the placement will serve the child's best interests.

89 Acts, ch 169, §5; 92 Acts, ch 1229, §12; 99 Acts, ch 111, §2, 7; 2012 Acts, ch 1019, §88
[T] Subsection 4 amended

232.179 Appointment of counsel and guardian ad litem.

Upon the filing of a petition, the court shall appoint a guardian ad litem to represent the best interests of the child unless the court determines that the child already has a guardian ad litem who represents the child's best interests. If the child's parent, guardian, or custodian desires counsel but cannot pay the counsel's expenses, the court may appoint counsel.

89 Acts, ch 169, §6

232.180 Duties of county attorney.

Upon the filing of a petition and the request of the department, the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition as provided under section 232.90.

89 Acts, ch 169, §7

232.181 Social history report.

Upon the filing of a petition, the department shall submit a social history report regarding the child and the child's family. The report shall include a description of the child's disability and resultant functional limitations, the case permanency plan, a description of the proposed foster care placement, and a description of family participation in developing the child's case permanency plan and the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the plan. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

89 Acts, ch 169, §8; 92 Acts, ch 1229, §13; 2005 Acts, ch 124, §5

232.182 Initial determination.

1. Upon the filing of a petition, the court shall fix a time for an initial determination hearing and give notice of the hearing to the child's parent, guardian, or custodian, counsel or guardian ad litem, and the department.

2. A parent who does not have custody of the child may petition the court to be made a party to proceedings under this division.

3. An initial determination hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing only if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing

the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. After the hearing is concluded, the court shall make and file written findings as to whether reasonable efforts, as defined in section 232.102, subsection 10, have been made and whether the voluntary foster family care placement is in the child's best interests.

a. The court shall order foster family care placement in the child's best interests if the court finds that all of the following conditions exist:

(1) The child has an emotional, physical, or intellectual disability which requires care and treatment.

(2) The child's parent, guardian, or custodian has demonstrated a willingness or ability to fulfill the responsibilities defined in the case permanency plan.

(3) Reasonable efforts have been made and the placement is in the child's best interests.

(4) A determination that services or support provided to the family of a child with an intellectual disability, other developmental disability, or organic mental illness will not enable the family to continue to care for the child in the child's home.

b. If the court finds that reasonable efforts have not been made and that services or support are available to prevent the placement, the court may order the services or support to be provided to the child and the child's family.

c. If the court finds that the foster care placement is necessary and the child's parent, guardian, or custodian has not demonstrated a commitment to fulfill the responsibilities defined in the child's case permanency plan, the court shall cause a child in need of assistance petition to be filed.

5A. If the court orders placement of the child into foster care, the court or the department shall establish a support obligation for the costs of the placement pursuant to section 234.39.

6. The hearing may be waived and the court may issue the findings and order required under subsection 5 on the basis of the department's written report if all parties agree to the hearing's waiver and the department's written report.

89 Acts, ch 169, §9; 92 Acts, ch 1229, §14, 15; 93 Acts, ch 78, §1; 99 Acts, ch 111, §3, 4, 7; 2009 Acts, ch 41, §240; 2012 Acts, ch 1019, §89

Referred to in §232.183, 234.35

[T] Subsection 5, paragraph a, subparagraph (4) amended

232.183 Dispositional hearing.

1. Following an entry of an initial determination order pursuant to section 232.182, the court shall hold a dispositional hearing in order to determine the future status of the child based on the child's best interests. Notice of the hearing shall be given to the child and the child's parent, guardian, or custodian, and the department.

2. The dispositional hearing shall be held within twelve months of the date the child was placed in foster care.

3. A dispositional hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. Following the hearing, the court shall issue a dispositional order. The dispositional orders which the court may enter, subject to its continuing jurisdiction, are as follows:

a. An order that the child's voluntary placement shall be terminated and the child returned to the child's home and provided with available services and support needed for the child to remain in the home.

b. An order that the child's voluntary placement may continue if the department and the child's parent or guardian continue to agree to the voluntary placement.

c. If the court finds that the child's parent, guardian, or custodian has failed to fulfill responsibilities outlined in the case permanency plan, an order that the child remain in foster

care and that the county attorney or department file, within three days, a petition alleging the child to be a child in need of assistance.

d. If 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 adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

6. With respect to each child whose placement was approved pursuant to subsection 5, the court shall continue to hold periodic dispositional hearings. The hearings shall not be waived or continued beyond twelve months following the last dispositional hearing. After a dispositional hearing, the court shall enter one of the dispositional orders authorized under subsection 5.

89 Acts, ch 169, §10; 92 Acts, ch 1141, §3; 92 Acts, ch 1229, §16; 93 Acts, ch 172, §36, 56; 97 Acts, ch 99, §8, 9; 2003 Acts, ch 117, §8; 2003 Acts, ch 151, §6

232.184 through 232.186 Reserved.

DIVISION XII

JUVENILE JUSTICE REFORM

232.187 Repealed by 93 Acts, ch 172, § 48, 56.

232.188 Decategorization of child welfare and juvenile justice funding initiative.

1. *Definitions.* For the purposes of this section, unless the context otherwise requires:

a. *"Decategorization governance board"* or *"governance board"* means the group that enters into and implements a decategorization project agreement.

b. *"Decategorization project"* means the county or counties that have entered into a decategorization agreement to implement the decategorization initiative in the county or multicounty area covered by the agreement.

c. *"Decategorization services funding pool"* or *"funding pool"* means the funding designated for a decategorization project from all sources.

2. *Purpose.* The decategorization of the child welfare and juvenile justice funding initiative is intended to establish a system of delivering human services based upon client needs to replace a system based upon a multitude of categorical programs and funding sources, each with different service definitions and eligibility requirements. The purposes of the decategorization initiative include but are not limited to redirecting child welfare and juvenile justice funding to services which are more preventive, family-centered, and community-based in order to reduce use of restrictive approaches which rely upon institutional, out-of-home, and out-of-community services.

3. *Implementation.*

a. Implementation of the initiative shall be through creation of decategorization projects. A project shall consist of either a single county or a group of counties interested in jointly implementing the initiative. Representatives of the department, juvenile court services, and county government shall develop a project agreement to implement the initiative within a project.

b. The initiative shall include community planning activities in the area covered by a project. As part of the community planning activities, the department shall partner with other community stakeholders to develop service alternatives that provide less restrictive levels of care for children and families receiving services from the child welfare and juvenile justice systems within the project area.

c. The decategorization initiative shall not be implemented in a manner that limits the legal rights of children and families to receive services.

4. *Governance board.*

a. In partnership with an interested county or group of counties which has demonstrated the commitment and involvement of the affected county department, or departments, of human services, the juvenile justice system within the project area, and board, or boards, of supervisors in order to form a decategorization project, the department shall develop a process for combining specific state and state-federal funding categories into a decategorization services funding pool for that project. A decategorization project shall be implemented by a decategorization governance board. The decategorization governance board shall develop specific, quantifiable short-term and long-term plans for enhancing the family-centered and community-based services and reducing reliance upon out-of-community care in the project area.

b. The department shall work with the decategorization governance boards to best coordinate planning activities and most effectively target funding resources. A departmental service area manager shall work with the decategorization governance boards in that service area to support board planning and service development activities and to promote the most effective alignment of resources.

c. A decategorization governance board shall coordinate the project's planning and budgeting activities with the departmental service area manager for the county or counties comprising the project area and the early childhood Iowa area board or boards for the early childhood Iowa area or areas within which the decategorization project is located.

5. *Funding pool.*

a. The governance board for a decategorization project has authority over the project's decategorization services funding pool and shall manage the pool to provide more flexible, individualized, family-centered, preventive, community-based, comprehensive, and coordinated service systems for children and families served in that project area. A funding pool shall also be used for child welfare and juvenile justice systems enhancements.

b. Notwithstanding section 8.33, moneys designated for a project's decategorization services funding pool that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure as directed by the project's governance board for child welfare and juvenile justice systems enhancements and other purposes of the project for the next two succeeding fiscal years. Such moneys shall be known as "*carryover funding*". Moneys may be made available to a funding pool from one or more of the following sources:

(1) Funds designated for the initiative in a state appropriation.

(2) Child welfare and juvenile justice services funds designated for the initiative by a departmental service area manager.

(3) Juvenile justice program funds designated for the initiative by a chief juvenile court officer.

(4) Carryover funding.

(5) Any other source designating moneys for the funding pool.

c. The services and activities funded from a project's funding pool may vary depending upon the strategies selected by the project's governance board and shall be detailed in an annual child welfare and juvenile justice decategorization services plan developed by the governance board. A decategorization governance board shall involve community representatives and county organizations in the development of the plan for that project's funding pool. In addition, the governance board shall coordinate efforts through communication with the appropriate departmental service area manager regarding budget planning and decategorization service decisions.

d. A decategorization governance board is responsible for ensuring that decategorization

services expenditures from that project's funding pool do not exceed the amount of funding available. If necessary, the governance board shall reduce expenditures or discontinue specific services as necessary to manage within the funding pool resources available for a fiscal year.

e. The annual child welfare and juvenile justice decategorization services plan developed for use of the funding pool by a decategorization governance board shall be submitted to the department administrator of child welfare services and the Iowa empowerment board. In addition, the decategorization governance board shall submit an annual progress report to the department administrator and the Iowa empowerment board which summarizes the progress made toward attaining the objectives contained in the plan. The progress report shall serve as an opportunity for information sharing and feedback.

6. *Departmental role.* A departmental service area's share of the child welfare appropriation that is not allocated by law for the decategorization initiative shall be managed by and is under the authority of the service area manager. A service area manager is responsible for meeting the child welfare service needs in the counties comprising the service area with the available funding resources.

92 Acts, ch 1229, §18; 98 Acts, ch 1206, §11, 20; 99 Acts, ch 111, §10; 99 Acts, ch 190, §16; 99 Acts, ch 192, §33; 2004 Acts, ch 1116, §14; 2005 Acts, ch 95, §1; 2010 Acts, ch 1031, §297; 2011 Acts, ch 129, §90, 156

Referred to in §225C.49, 235.7, 237A.1, 249A.26

[SP] Carryover funding from fiscal year beginning July 1, 2009, transferred to community housing and services for persons with disabilities revolving loan program fund; 2011 Acts, ch 129, §55, 74

232.189 Reasonable efforts administrative requirements.

Based upon a model reasonable efforts family court initiative, the director of human services and the chief justice of the supreme court or their designees shall jointly establish and implement a statewide protocol for reasonable efforts, as defined in section 232.102. In addition, the director and the chief justice shall design and implement a system for judicial and departmental reasonable efforts education for deployment throughout the state. The system for reasonable efforts education shall be developed in a manner which addresses the particular needs of rural areas and shall include but is not limited to all of the following topics:

1. Regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

2. The duties of judicial and departmental employees associated with placing a child removed from the child's home into a permanent home and the urgency of the placement for the child.

3. The essential elements, including writing techniques, in developing effective permanency plans.

4. The essential elements of gathering evidence sufficient for the evidentiary standards required for judicial orders under this chapter.

92 Acts, ch 1229, §19; 95 Acts, ch 182, §13; 98 Acts, ch 1190, §28

232.190 Repealed by its own terms effective June 30, 2005; 2000 Acts, ch 1222, § 14.

232.191 Early intervention and follow-up programs.

Contingent on a specific appropriation for these purposes, the department shall do the following:

1. Develop or expand programs providing specific life skills and interpersonal skills training for adjudicated delinquent youth who pose a low or moderate risk to the community.

2. Develop or expand a school-based program addressing truancy and school behavioral problems for youth ages twelve through seventeen.

3. Develop or expand an intensive tracking and supervision program for adjudicated delinquent youth at risk for placement who have been released from resident facilities, which shall include telephonic or electronic tracking and monitoring and intervention by juvenile authorities.

4. Develop or expand supervised community treatment for adjudicated delinquent youth who experience significant problems and who constitute a moderate community risk.

94 Acts, ch 1172, §28
Referred to in §232.52

232.192 through 232.194 Reserved.

232.195 Runaway treatment plan.

A county may develop a runaway treatment plan to address problems with chronic runaway children in the county. The plan shall identify the problems with chronic runaway children in the county and specific solutions to be implemented by the county, including the development of a runaway assessment center.

97 Acts, ch 90, §3; 98 Acts, ch 1100, §28
Referred to in §232.196

232.196 Runaway assessment center.

1. As part of a county runaway treatment plan under section 232.195, a county may establish a runaway assessment center or other plan. The center or other plan, if established, shall provide services to assess a child who is referred to the center or plan for being a chronic runaway and intensive family counseling services designed to address any problem causing the child to run away. A center shall at least meet the requirements established for providing child foster care under chapter 237.

2. *a.* If not sent home with the child's parent, guardian, or custodian, a chronic runaway may be placed in a runaway assessment center by the peace officer who takes the child into custody under section 232.19, if the officer believes it to be in the child's best interest after consulting with the child's parent, guardian, or custodian. A chronic runaway shall not be placed in a runaway assessment center for more than forty-eight hours.

b. If a runaway is placed in an assessment center according to a county plan, the runaway shall be assessed within twenty-four hours of being placed in the center by a center counselor to determine the following:

(1) The reasons why the child is a runaway.

(2) Whether the initiation or continuation of child in need of assistance or family in need of assistance proceedings is appropriate.

c. As soon as practicable following the assessment, the child and the child's parents, guardian, or custodian shall be provided the opportunity for a counseling session to identify the underlying causes of the runaway behavior and develop a plan to address those causes.

d. A child shall be released from a runaway assessment center, established pursuant to the county plan, to the child's parents, guardian, or custodian not later than forty-eight hours after being placed in the center unless the child is placed in shelter care under section 232.21 or an order is entered under section 232.78. A child whose parents, guardian, or custodian failed to attend counseling at the center or fail to take custody of the child at the end of placement in the center may be the subject of a child in need of assistance petition or such other order as the juvenile court finds to be in the child's best interest.

97 Acts, ch 90, §4; 98 Acts, ch 1100, §29
Referred to in §232.19