

Senate File 365

S-5095

1 Amend the House amendment, S-3246, to Senate File
2 365, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. By striking page 1, line 3, through page 2, line
5 31, and inserting:

6 <___. By striking everything after the enacting
7 clause and inserting:

8 <Section 1. Section 232.8, subsection 1, paragraph
9 c, Code 2011, is amended to read as follows:

10 c. Violations by a child, aged sixteen or older,
11 which subject the child to the provisions of section
12 124.401, subsection 1, paragraph "e" or "f", or
13 violations of section 723A.2 which involve a violation
14 of chapter 724, or violation of chapter 724 which
15 constitutes a felony, or violations which constitute
16 a forcible felony are excluded from the jurisdiction
17 of the juvenile court and shall be prosecuted as
18 otherwise provided by law unless the district court
19 transfers jurisdiction of the child to the juvenile
20 court upon motion and for good cause pursuant to
21 section 803.6. ~~A child over whom jurisdiction has not~~
22 ~~been transferred to the juvenile court, and who is~~
23 ~~convicted of a violation excluded from the jurisdiction~~
24 ~~of the juvenile court under this paragraph, shall be~~
25 ~~sentenced pursuant to section 124.401B, 902.9, or~~
26 ~~903.1~~. Notwithstanding any other provision of the
27 Code to the contrary, the district court may accept
28 from a child in district court a plea of guilty, or
29 may instruct the jury on a lesser included offense
30 to the offense excluded from the jurisdiction of the
31 juvenile court under this section, in the same manner
32 as regarding an adult. The judgment and sentence of
33 a child in district court shall be as provided in
34 section 901.5. However, the juvenile court shall
35 have exclusive original jurisdiction in a proceeding
36 concerning an offense of animal torture as provided in
37 section 717B.3A alleged to have been committed by a
38 child under the age of seventeen.

39 Sec. 2. Section 232.8, subsection 3, paragraph a,
40 Code 2011, is amended to read as follows:

41 a. The juvenile court, after a hearing and in
42 accordance with the provisions of section 232.45, may
43 waive jurisdiction of a child alleged to have committed
44 a public offense so that the child may be prosecuted
45 as an adult or youthful offender for such offense in
46 another court. If the child, ~~except a child being~~
47 ~~prosecuted as a youthful offender,~~ pleads guilty or is
48 found guilty of a public offense other than a class "A"
49 felony in another court of this state, that court may
50 suspend the sentence or, with the consent of the child,

1 defer judgment and without regard to restrictions
2 placed upon deferred judgments for adults, place the
3 child on probation for a period of not less than one
4 year upon such conditions as it may require. Upon
5 fulfillment of the conditions of probation, a child
6 who receives a deferred judgment shall be discharged
7 without entry of judgment. A child prosecuted as
8 a youthful offender shall be sentenced pursuant to
9 section 907.3A.

10 Sec. 3. Section 232.45, subsection 6, unnumbered
11 paragraph 1, Code 2011, is amended to read as follows:

12 At the conclusion of the waiver hearing the court
13 may waive its jurisdiction over the child for the
14 alleged commission of the public offense for the
15 purpose of prosecution of the child as an adult if all
16 of the following apply:

17 Sec. 4. Section 232.45, subsection 7, paragraph
18 a, subparagraph (1), Code 2011, is amended to read as
19 follows:

20 (1) The child is twelve through fifteen years of
21 age or younger the child is ten or eleven years of age
22 and has been charged with a public offense that would
23 be classified as a class "A" felony if committed by an
24 adult.

25 Sec. 5. Section 232.45A, subsections 2 and 3, Code
26 2011, are amended to read as follows:

27 2. ~~Once a child sixteen years of age or older~~
28 ~~has been waived to and convicted of an aggravated~~
29 ~~misdemeanor or a felony in by the juvenile court to the~~
30 ~~district court, all subsequent criminal proceedings~~
31 ~~against the child for any aggravated misdemeanor~~
32 ~~or felony occurring subsequent to the date of the~~
33 ~~conviction of the child for any delinquent act~~
34 committed after the date of the waiver by the juvenile
35 court shall begin in district court, notwithstanding
36 sections 232.8 and 232.45. A copy of the findings
37 required by section 232.45, subsection 10, shall
38 be made a part of the record in the district court
39 proceedings. However, upon acquittal or dismissal
40 in district court of all waived offenses and all
41 lesser included offenses of the waived offenses, the
42 proceedings for any delinquent act committed by the
43 child subsequent to such acquittal or dismissal shall
44 begin in juvenile court. Any proceedings initiated in
45 district court for a public offense committed by the
46 child subsequent to the waiver by the juvenile court,
47 but prior to any acquittal or dismissal of all waived
48 offenses and lesser included offenses in district
49 court, shall remain in district court.

50 3. ~~If proceedings against a child for an aggravated~~

1 ~~misdemeanor or a felony~~ sixteen years of age or older
2 who has previously been waived to ~~and convicted of~~
3 ~~an aggravated misdemeanor or a felony in the district~~
4 court are mistakenly begun in the juvenile court, the
5 matter shall be transferred to district court upon
6 the discovery of the prior waiver and conviction,
7 notwithstanding sections 232.8 and 232.45.>

8 Sec. 6. Section 232.50, subsection 1, Code 2011, is
9 amended to read as follows:

10 1. As soon as practicable following the entry
11 of an order of adjudication pursuant to section
12 232.47 or notification that the child has ~~received a~~
13 ~~youthful offender deferred sentence~~ been placed on
14 youthful offender status pursuant to section 907.3A,
15 the court shall hold a dispositional hearing in order
16 to determine what disposition should be made of the
17 matter.

18 Sec. 7. Section 232.52, subsection 1, Code 2011, is
19 amended to read as follows:

20 1. Pursuant to a hearing as provided in section
21 232.50, the court shall enter the least restrictive
22 dispositional order appropriate in view of the
23 seriousness of the delinquent act, the child's
24 culpability as indicated by the circumstances of
25 the particular case, the age of the child, the
26 child's prior record, or the fact that the child has
27 ~~received a youthful offender deferred sentence~~ been
28 placed on youthful offender status under section
29 907.3A. The order shall specify the duration and
30 the nature of the disposition, including the type of
31 residence or confinement ordered and the individual,
32 agency, department, or facility in whom custody is
33 vested. In the case of a child who has ~~received a~~
34 ~~youthful offender deferred sentence~~ been placed on
35 youthful offender status, the initial duration of the
36 dispositional order shall be until the child reaches
37 the age of eighteen.

38 Sec. 8. Section 232.54, subsection 1, paragraph g,
39 Code 2011, is amended to read as follows:

40 g. With respect to a juvenile court dispositional
41 order entered regarding a child who has ~~received a~~
42 ~~youthful offender deferred sentence~~ been placed on
43 youthful offender status under section 907.3A, the
44 dispositional order may be terminated prior to the
45 child reaching the age of eighteen upon motion of the
46 child, the person or agency to whom custody of the
47 child has been transferred, or the county attorney
48 following a hearing before the juvenile court if it is
49 shown by clear and convincing evidence that it is in
50 the best interests of the child and the community to

1 terminate the order. The hearing may be waived if all
2 parties to the proceeding agree. The dispositional
3 order regarding a child who has ~~received a youthful~~
4 ~~offender deferred sentence~~ been placed on youthful
5 offender status may also be terminated prior to the
6 child reaching the age of eighteen upon motion of the
7 county attorney, if the waiver of the child to district
8 court was conditioned upon the terms of an agreement
9 between the county attorney and the child, and the
10 child violates the terms of the agreement after the
11 waiver order has been entered. The district court
12 shall discharge the child's youthful offender status
13 upon receiving a termination order under this section.

14 Sec. 9. Section 232.54, subsection 1, paragraph h,
15 unnumbered paragraph 1, Code 2011, is amended to read
16 as follows:

17 With respect to a dispositional order entered
18 regarding a child who has ~~received a youthful offender~~
19 ~~deferred sentence~~ been placed on youthful offender
20 status under section 907.3A, the juvenile court may,
21 in the case of a child who violates the terms of the
22 order, modify or terminate the order in accordance with
23 the following:

24 Sec. 10. Section 232.55, subsection 3, Code 2011,
25 is amended to read as follows:

26 3. This section does not apply to dispositional
27 orders entered regarding a child who has ~~received a~~
28 ~~youthful offender deferred sentence~~ been placed on
29 youthful offender status under section 907.3A who
30 is not discharged from probation before or upon the
31 child's eighteenth birthday.

32 Sec. 11. Section 232.56, Code 2011, is amended to
33 read as follows:

34 **232.56 Youthful offenders — transfer to district**
35 **court supervision.**

36 The juvenile court shall deliver a report, which
37 includes an assessment of the child by a juvenile court
38 officer after consulting with the judicial district
39 department of correctional services, to the district
40 court prior to the eighteenth birthday of a child who
41 has ~~received a youthful offender deferred sentence~~
42 been placed on youthful offender status under section
43 907.3A. A hearing shall be held in the district court
44 in accordance with section 907.3A to determine whether
45 the child should be discharged from youthful offender
46 status or whether the child shall continue under the
47 supervision of the district court after the child's
48 eighteenth birthday.

49 Sec. 12. Section 901.5, Code Supplement 2011, is
50 amended by adding the following new subsection:

1 NEW SUBSECTION. 14. Notwithstanding any provision
2 in section 907.3 or any other provision of law
3 prescribing a mandatory minimum sentence for the
4 offense, if the defendant is guilty of a public offense
5 other than a class "A" felony, and was a minor at
6 the time the offense was committed, the court may
7 suspend the sentence in whole or in part, including any
8 mandatory minimum sentence, defer sentence, or with the
9 consent of the defendant, defer judgment, and place the
10 defendant on probation, upon such conditions as the
11 court may require.

12 Sec. 13. Section 907.3A, Code 2011, is amended to
13 read as follows:

14 ~~907.3A Youthful offender deferred sentence —~~
15 ~~youthful offender status.~~

16 1. Notwithstanding section 907.3 but subject to any
17 conditions of the waiver order, the trial court shall,
18 upon a plea of guilty or a verdict of guilty, ~~defer~~
19 ~~sentence of a youthful offender~~ place the juvenile
20 over whom the juvenile court has waived jurisdiction
21 pursuant to section 232.45, subsection 7, and place
22 the juvenile on youthful offender status. The court
23 shall transfer supervision of the youthful offender
24 to the juvenile court for disposition in accordance
25 with section 232.52. An adjudication of delinquency
26 entered by the juvenile court at disposition for
27 a public offense shall not be deemed a conviction
28 and shall not preclude the subsequent entry of a
29 deferred judgment, conviction, or sentence by the
30 district court. The court shall require supervision
31 of the youthful offender in accordance with section
32 232.54, subsection 1, paragraph "h", or subsection 2
33 of this section. ~~Notwithstanding section 901.2, a~~
34 ~~presentence investigation shall not be ordered by the~~
35 ~~court subsequent to an entry of a plea of guilty or~~
36 ~~verdict of guilty or prior to deferral of sentence of a~~
37 ~~youthful offender under this section.~~

38 2. The court shall hold a hearing prior to a
39 youthful offender's eighteenth birthday to determine
40 whether the youthful offender shall continue on
41 youthful offender status after the youthful offender's
42 eighteenth birthday ~~under the supervision of the~~
43 ~~court or be discharged.~~ Notwithstanding section
44 901.2, the court may order a presentence investigation
45 report including a report for an offense classified
46 as a class "A" felony. The court shall review the
47 report of the juvenile court regarding the youthful
48 offender ~~and prepared pursuant to section 232.56,~~
49 ~~and any presentence investigation report, if ordered~~
50 ~~by the court.~~ The court shall hear evidence by or

1 on behalf of the youthful offender, by the county
2 attorney, and by the person or agency to whom custody
3 of the youthful offender was transferred. The court
4 shall make its decision, pursuant to the sentencing
5 options available in subsection 3, after considering
6 the services available to the youthful offender, the
7 evidence presented, the juvenile court's report, the
8 presentence investigation report if ordered by the
9 court, the interests of the youthful offender, and
10 interests of the community.

11 3. a. Notwithstanding any provision of the Code
12 which prescribes a mandatory minimum sentence for the
13 offense committed by the youthful offender, following
14 transfer of the youthful offender from the juvenile
15 court back to the court having jurisdiction over the
16 criminal proceedings involving the youthful offender,
17 the court may continue the youthful offender deferred
18 sentence or enter a sentence, which may be a suspended
19 sentence, shall order one of the following sentencing
20 options:

21 (1) Defer judgment and place the youthful offender
22 on probation, upon the consent of the youthful
23 offender.

24 (2) Defer the sentence and place the youthful
25 offender on probation upon such terms and conditions
26 as the court may require.

27 (3) Suspend the sentence and place the youthful
28 offender on probation upon such terms and conditions
29 as the court may require.

30 (4) A term of confinement.

31 (5) Discharge the youthful offender from youthful
32 offender status and terminate the sentence.

33 b. Notwithstanding anything in section 907.7 to
34 the contrary, if the district court either grants
35 the youthful offender a deferred judgment, continues
36 the youthful offender deferred sentence, or enters a
37 sentence, and suspends the sentence, and places the
38 youthful offender on probation, the term of formal
39 supervision shall commence upon entry of the order by
40 the district court and may continue for a period not
41 to exceed five years. If the district court enters a
42 sentence of confinement, and the youthful offender was
43 previously placed in secure confinement by the juvenile
44 court under the terms of the initial disposition order
45 or any modification to the initial disposition order,
46 the person shall receive credit for any time spent in
47 secure confinement. During any period of probation
48 imposed by the district court, a youthful offender who
49 violates the terms of probation is subject to section
50 908.11.

1 _____. Title page, line 2, after <status> by
2 inserting <and the prosecution of a juvenile in
3 juvenile or>>

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