

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN RIGHTS/CRIMINAL AND
JUVENILE JUSTICE PLANNING
DIVISION BILL)

A BILL FOR

1 An Act relating to the placement of a child in detention.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.22, subsection 5, Code 2021, is
2 amended to read as follows:

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

11 (1) a. The facility serves a geographic area outside a
12 standard metropolitan statistical area as determined by the
13 United States ~~census bureau~~ office of management and budget.

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

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

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

22 ~~b. The restrictions contained in this subsection relating~~
23 ~~to the detention of a child in a facility under subsection~~
24 ~~3, paragraph "c", do not apply if the court has waived its~~
25 ~~jurisdiction over the child for the alleged commission of a~~
26 ~~felony offense pursuant to section 232.45.~~

27 Sec. 2. Section 232.22, subsection 7, Code 2021, is amended
28 to read as follows:

29 7. a. If the court has waived its jurisdiction over the
30 child ~~for the alleged commission of a forcible felony offense~~
31 ~~pursuant to section 232.45 or 232.45A, and there is a serious~~
32 ~~risk that the child may commit an act which would inflict~~
33 ~~serious bodily harm on another person, the child may be held~~
34 ~~in the county jail, notwithstanding section 356.3. However,~~
35 ~~wherever possible the child shall be held in sight and sound~~

1 ~~separation from adult offenders. A child held in the county~~
2 ~~jail under this subsection shall have all the rights of adult~~
3 ~~postarrest or pretrial detainees. a child age sixteen years or~~
4 ~~older who is excluded from the jurisdiction of the juvenile~~
5 ~~court pursuant to section 232.8, subsection 1, paragraph "c",~~
6 ~~while awaiting trial or other legal process, shall not be~~
7 ~~detained in any facility intended for the detention of adults~~
8 ~~unless the court determines that after a hearing and issuing~~
9 ~~written findings, such detention is in the best interest of the~~
10 ~~child and the community. In determining whether it is in the~~
11 ~~best interest of the child and the community to permit a child~~
12 ~~to be detained in a facility intended for the detention of~~
13 ~~adults, the court shall consider all of the following:~~

14 (1) The age of the child, including the child's physical and
15 mental maturity.

16 (2) The present mental state of the child, including whether
17 the child presents an imminent risk of harm to the child's
18 self.

19 (3) The nature and circumstances of the alleged offense.

20 (4) The child's history of prior delinquent acts.

21 (5) The relative ability of available adult and juvenile
22 detention facilities to not only meet the specific needs of the
23 child but also to protect the safety of the public as well as
24 other detained children.

25 (6) Any other relevant factor.

26 b. If a court determines pursuant to paragraph "a" that
27 it is in the best interest of the child and the community to
28 permit a child to be detained in a facility intended for the
29 detention of adults, the following conditions shall apply:

30 (1) The child shall not have sight or sound contact with
31 adult inmates.

32 (2) The court shall hold a hearing, not less than once
33 every thirty days, or in the case of a rural, nonmetropolitan
34 jurisdiction as determined by the United States office of
35 management and budget, not less than once every forty-five

1 days, to review whether it is still in the best interest of the
2 child and the community to permit a child to be detained in a
3 facility intended for the detention of adults.

4 (3) The child shall not be detained in a facility intended
5 for the detention of adults for more than one hundred eighty
6 days unless the court, in writing, determines there is good
7 cause for an extension or the child expressly waives this
8 limitation.

9 (4) A child detained in a county jail in a facility intended
10 for the detention of adults under this subsection shall have
11 all the rights of adult postarrest or pretrial detainees.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to the placement of a child (person under
16 the age of 18) in detention.

17 The bill provides that a judge or magistrate may authorize
18 detention for a period of time in excess of 6 hours but less
19 than 24 hours only if the facility serves a geographic area
20 outside a standard metropolitan statistical area as determined
21 by the United States office of management and budget. Current
22 law states that it is the U.S. census bureau that determines
23 the standard metropolitan statistical area.

24 The bill provides that if the court has waived its
25 jurisdiction over a child pursuant to Code section 232.45
26 or 232.45A, a child age 16 or older who is excluded from
27 the jurisdiction of the juvenile court for offenses that
28 involve the manufacture, delivery, or possession of controlled
29 substances while in the immediate possession or control of a
30 firearm or offensive weapon; gang activity involving firearms
31 or offensive weapons; felonious possession of an offensive
32 weapon; or any forcible felony, the child, while awaiting
33 trial or other legal process, shall not be detained in any
34 facility intended for the detention of adults unless the court
35 determines that after a hearing and issuing written findings

1 it is in the best interest of the child and the community.
2 The court shall consider the age of the child, including the
3 child's physical and mental maturity; the present mental state
4 of the child, including whether the child presents an imminent
5 risk of harm to the child's self; the nature and circumstances
6 of the alleged offense; the child's history of prior delinquent
7 acts; the relative ability of available adult and juvenile
8 detention facilities to not only meet the specific needs of the
9 child but also to protect the safety of the public as well as
10 other detained children; and any other relevant factor.

11 The bill provides that if a court determines that it is in
12 the best interest of the child and the community to permit a
13 child to be detained in a facility intended for the detention
14 of adults, the following conditions shall apply: the child
15 shall not have sight or sound contact with adult inmates; the
16 court shall hold a hearing not less than once every 30 days, or
17 in the case of a rural, nonmetropolitan jurisdiction, not less
18 than once every 45 days, to review whether it is still in the
19 best interest of the child and the community to permit a child
20 to be detained in a facility intended for the detention of
21 adults; the child shall not be detained in a facility intended
22 for the detention of adults for more than 180 days unless
23 the court, in writing, determines there is good cause for an
24 extension or the child expressly waives this limitation; and
25 a child detained in a county jail in a facility intended for
26 the detention of adults shall have all the rights of adult
27 postarrest or pretrial detainees.