

JUVENILE JUSTICE INTERIM SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON JUDICIARY

Report to Members of the
Second Session of the Sixty-seventh General Assembly

State of Iowa
1978

FINAL REPORT
JUVENILE JUSTICE INTERIM SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON JUDICIARY

The five member Juvenile Justice Subcommittee authorized by the Legislative Council on July 14, 1977, met seven days during the 1977 interim to consider and to draft amendments to the proposed Juvenile Code revision, House File 248. Members of the Subcommittee are: Senators Gene W. Glenn, Chairperson, Lucas DeKoster, Minnette Doderer, Philip Hill, and Richard Ramsey.

The first two Subcommittee meetings, July 27 and August 12 were devoted to an intensive analysis of House File 248 and the amendments adopted threto by the House of Representatives during the 1977 Session. Subsequent meetings on August 25, September 19 and 27, October 17, and November 15 were devoted to a section-by-section discussion and adoption of proposed amendments by Subcommittee members. A public hearing which included all members of the Senate Committee on Judiciary was held on September 28, and the views of many organizations and individuals on House File 248 as amended, passed and reprinted by the House were received. The Subcommittee considered the testimony received at the public hearing during its subsequent deliberations.

At its final meeting, the Subcommittee voted to recommend House File 248 as amended by the Subcommittee to the full Senate Judiciary Committee for passage.

A copy of the amendments adopted by the Subcommittee for presentation to the full Committee on Judiciary is attached. Copies of public hearing testimony and lists of persons attending each of the Subcommittee meetings are available at the Legislative Service Bureau.

SUBCOMMITTEE AMENDMENT
(REVISED)
HOUSE FILE 248

1 House File 248, as amended, passed and reprinted
2 by the House, is amended to read as follows:

3 1. Page 1, by striking lines 11 through 17.

4 2. Page 1, line 26, by striking the words
5 "carried out" and inserting in lieu thereof the word
6 "evidenced".

7 3. Page 1, by striking lines 28 through 34 and
8 inserting in lieu thereof the words "any particular
9 period of time."

10 4. Page 2, by striking lines 3 and 4 and
11 inserting in lieu thereof the following:

12 "4. "Child" means a person under eighteen years
13 of age."

14 5. Page 2, line 5, by striking the word "a"
15 and inserting in lieu thereof the words "an unmarried".

16 6. Page 2, line 9, by striking the word "child"
17 and inserting in lieu thereof the word "child;".

18 7. Page 2, by striking line 23 and inserting
19 in lieu thereof the words "or prevent serious physical
20 injury".

21 8. Page 2, by striking line 26 and inserting
22 in lieu thereof the words "to do so or has refused
23 other means made available to provide treatment."

24 9. Page 2, line 28, by striking the word
25 "disorder" and inserting in lieu thereof the word
26 "disorder,".

27 10. Page 2, by striking lines 32 and 33 and
28 inserting in lieu thereof the words "although
29 financially able to do so or has refused other means
30 made available to provide treatment."

31 11. Page 3, by striking line 2 and inserting
32 in lieu thereof the words ", or refuses other means
33 made available to provide treatment."

34 12. Page 3, line 14, by striking the words
35 "verbal or".

36 13. Page 5, lines 2, 3, 12, 14, 19 and 24, by
37 striking the word "minor".

38 14. Page 6, line 12, by adding after the word
39 "complaints" the words "by an intake officer".

40 15. Page 6, line 16, by striking the word
41 "authorized" and inserting in lieu thereof the words
42 "or other officer appointed".

43 16. Page 9, line 19, by inserting after the
44 word "adult." the words "The taking into custody of
45 a child is subject to all constitutional and statutory
46 protections which are afforded an adult upon arrest."

47 17. Page 10, line 18, by inserting after the
48 word "curfew" the words "or traffic".

49 18. Page 10, by striking lines 24 through 26.

50 19. Page 11, lines 12 and 13, by striking the

1 words "The juvenile court shall waive jurisdiction
2 upon motion by the child."

3 20. Page 12, line 17, by striking the words
4 "the intake stage" and inserting in lieu thereof the
5 word "intake".

6 21. Page 12, line 18, by striking the words
7 "at an interview".

8 22. Page 12, line 35, by striking all after
9 the word "of" and inserting in lieu thereof the word
10 "age."

11 23. Page 13, by striking lines 1 through 4.

12 24. Page 14, line 8, by striking the word
13 "delinquency".

14 25. Page 14, line 9, by inserting after the
15 word "proceedings" the words "under Division two (II)
16 of this Act".

17 26. Page 14, by striking lines 20 through 22.

18 27. Page 14, by striking lines 30 through 32
19 and inserting in lieu thereof the words "custodian
20 as soon as possible. Unless the".

21 28. Page 16, line 1, by striking the words
22 "himself or herself" and inserting in lieu thereof
23 the words "the child".

24 29. Page 16, by striking lines 2 through 5.

25 30. Page 18, line 1, by striking the word
26 "children" and inserting in lieu thereof the words
27 "a child awaiting disposition to a placement ordered
28 under section thirty-one (31), subsection four (4),
29 paragraph e, of this Act".

30 31. Page 18, by striking lines 11 through 23.

31 32. Page 19, by inserting after line 15 the
32 following:

33 "_____. The intake officer, after consultation
34 with the county attorney when necessary, shall
35 determine whether the complaint is legally sufficient
36 for the filing of a petition. A complaint shall be
37 deemed legally sufficient for the filing of a petition
38 if the facts as alleged are sufficient to establish
39 the jurisdiction of the court and probable cause to
40 believe that the child is a delinquent. If the intake
41 officer determines that the complaint is legally
42 sufficient to support the filing of a petition, the
43 officer shall determine whether the interests of the
44 child and the public will best be served by the
45 dismissal of the complaint, the informal adjustment
46 of the complaint, or the filing of a petition."

47 33. Page 19, line 26, by striking the word and
48 figure "fifteen (15)" and inserting in lieu thereof
49 the word and figure "fourteen (14)".

50 34. Page 19, lines 31 and 32, by striking the

1 word and figure "sixteen (16)" and inserting in lieu
2 thereof the word and figure "fifteen (15)".
3 35. Page 20, line 21, by striking the word "six"
4 and inserting in lieu thereof the word "three".
5 36. Page 20, line 31, by striking the word "six"
6 and inserting in lieu thereof the word "three"
7 37. Page 20, line 33, by inserting after the
8 word "into." the following sentence: "The informal
9 adjustment shall not be admissible in proceedings
10 on such a petition."
11 38. Page 21, line 3, by striking the words
12 "every six months" and inserting in lieu thereof the
13 word "annually".
14 39. Page 23, lines 2 and 10, by striking the
15 word and figure "five (5)" and inserting in lieu
16 thereof the word and figure "six (6)".
17 40. Page 23, by striking line 3 and inserting
18 in lieu thereof the following:
19 "2. Notice of the pendency of the".
20 41. Page 23, line 4, by inserting after the
21 word "case" the words "shall be".
22 42. Page 23, line 6, by striking the words "The
23 court shall also".
24 43. Page 23, line 7, by striking the words "have
25 notice" and inserting in lieu thereof the words "Notice
26 shall also be".
27 44. Page 24, line 27, by striking the word
28 "shall" and inserting in lieu thereof the word "may".
29 45. Page 24, line 28, by striking the words
30 "in its discretion".
31 46. Page 25, by inserting after line 10 the
32 following new section:
33 "Sec. ____ . NEW SECTION. CONTINUANCES.
34 Continuances in juvenile delinquency proceedings may
35 be granted by the court only for good cause shown
36 on the record if the child is being held in detention."
37 47. Page 26, lines 2, 4 and 5, by striking the
38 word "defendant" and inserting in lieu thereof the
39 word "child".
40 48. Page 26, line 15, by striking the word
41 "indicate" and inserting in lieu thereof the word
42 "state".
43 49. Page 30, line 3, by inserting after the
44 word "attorney" the words "or the child".
45 50. Page 30, line 4, by striking the words
46 "jurisdiction over" and lines 5 and 6 and inserting
47 in lieu thereof the word "jurisdiction."
48 51. Page 30, line 7, by striking the words
49 "without a jury".
50 52. Page 30, line 14, by striking the word and

1 figure "eighteen (18)" and inserting in lieu thereof
2 the word and figure "seventeen (17)".

3 53. Page 30, line 21, by inserting after the
4 word "court." the following sentence: "The report
5 shall include any recommendations made concerning
6 waiver."

7 54. Page 32, by striking lines 7 through 9 and
8 inserting in lieu thereof the words "sentence provided
9 in section two hundred four point four hundred thirteen
10 (204.413), Code 1977 Supplement, shall not".

11 55. Page 35, by striking lines 10 through 14.

12 56. Page 35, line 30, by striking the words
13 "except as otherwise provided".

14 57. Page 36, by striking lines 4 and 5 and
15 inserting in lieu thereof the word "child."

16 58. Page 36, line 9, by inserting after the
17 word "hearing" the words "which may be simultaneous
18 with the adjudicatory hearing".

19 59. Page 36, line 30, by striking the word
20 "petition" and inserting in lieu thereof the word
21 "matter".

22 60. Page 37, line 2, by inserting after the
23 word "ILL" the words "OR MENTALLY RETARDED".

24 61. Page 37, by striking line 7 and inserting
25 in lieu thereof the words "guardian to initiate civil
26 commitment proceedings in the juvenile court. Such
27 proceedings shall adhere to the requirements of chapter
28 two hundred".

29 62. Page 37, by striking line 13 and inserting
30 in lieu thereof the words "initiate civil commitment
31 proceedings in the juvenile court. Such proceedings
32 shall adhere to the requirements of chapter two hundred
33 twenty-two".

34 63. Page 37, line 25, by striking the word
35 "assignments" and inserting in lieu thereof the word
36 "assignments,".

37 64. Page 40, by striking line 15 and inserting
38 in lieu thereof the following: "three (33) of this
39 Act. No dispositional order made under section thirty-
40 one (31), subsection four (4), paragraphs d or e".

41 65. Page 40, line 23, by striking the word and
42 figure "three (3)" and inserting in lieu thereof the
43 word and figure "four (4)".

44 66. Page 40, by striking line 35 and lines 1
45 and 2, page 41.

46 67. Page 41, line 10, by inserting after the
47 word "paragraph" the words "a or".

48 68. Page 41, line 21, by striking the word
49 "paragraphs" and inserting in lieu thereof the word
50 "paragraph".

1 69. Page 41, by striking line 22 and inserting
2 in lieu thereof the following: "c, of this Act, the
3 court may grant a motion of".
4 70. Page 41, line 23, by striking the words
5 "or agency".
6 71. Page 41, by striking lines 28 and 29 and
7 inserting in lieu thereof the following: "all parties,
8 and a hearing shall be held at the request of any
9 party."
10 72. Page 41, by inserting after line 29 the
11 following new paragraph:
12 "Notwithstanding the dispositional order, an
13 agency, facility, or institution to whom custody has
14 been granted under section thirty-one (31), subsection
15 four (4), paragraphs c, d, or e, of the Code may
16 terminate the order and discharge the child, modify
17 the order by imposing less restrictive conditions,
18 or vacate the order and substitute a less restrictive
19 order without leave of court."
20 73. Page 42, line 25, by striking the word and
21 figure "eighteen (18)" and inserting in lieu thereof
22 the word and figure "seventeen (17)".
23 74. Page 44, line 7, by striking the words "or
24 any other".
25 75. Page 45, line 16, by striking the word and
26 figure "nine (39)" and inserting in lieu thereof the
27 word and figure "eight (38)".
28 76. Page 45, line 23, by striking the word and
29 figure "thirty-nine (39)" and inserting in lieu thereof
30 the word and figure "thirty-eight (38)".
31 77. Page 46, by striking lines 5 through 7.
32 78. Page 46, by inserting after line 25 the
33 following new section:
34 "Sec. ____ . NEW SECTION. RETENTION AND SHELTER
35 CARE OF RUNAWAY.
36 1. A peace officer may remove a child to a
37 shelter facility when:
38 a. that officer has reasonable grounds to believe
39 that the child has run away from his or her parents,
40 guardian or other custodian; and
41 b. the child is not currently residing in an
42 environment deemed adequate by the department.
43 2. When a peace officer removes a child to
44 shelter care under the provisions of subsection one
45 (1) of this section, that officer shall notify the
46 child's parent, guardian or custodian as soon as
47 possible.
48 3. A child placed in shelter care under this
49 section may be sheltered for up to forty-eight hours
50 until a parent, guardian, or custodian assumes custody,

1 or until other provisions are arranged for care of
2 the child."
3 79. Page 47, line 2, by striking the word and
4 figure "seventy-two (72)" and inserting in lieu thereof
5 the word and figure "seventy-three (73)".
6 80. Page 47, line 14, by striking the word
7 "should" and inserting in lieu thereof the word "may".
8 81. Page 48, line 1, by striking the word and
9 figure "seventeen (17)" and inserting in lieu thereof
10 the word and figure "sixteen (16)".
11 82. Page 48, line 3, by striking the word and
12 figure "seventeen (17)" and inserting in lieu thereof
13 the word and figure "sixteen (16)".
14 83. Page 48, line 10, by striking the word and
15 figure "eighteen (18)" and inserting in lieu thereof
16 the word and figure "seventeen (17)".
17 84. Page 48, line 32, by striking the word and
18 figure "nineteen (19)" and inserting in lieu thereof
19 the word and figure "eighteen (18)".
20 85. Page 49, line 12, by inserting after the
21 word "or" the words "electronic or".
22 86. Page 50, line 30, by striking the words
23 "privilege attaching to" and inserting in lieu thereof
24 the words "prohibition upon".
25 87. Page 51, line 26, by striking the word
26 "licnesed" and inserting in lieu thereof the word
27 "licensed".
28 88. Page 52, by inserting after line 13 the
29 following new paragraph:
30 "The hearing required by this section may be
31 held simultaneously with the adjudicatory hearing."
32 89. Page 52, by striking lines 23 and 24.
33 90. Page 54, line 7, by inserting after the
34 word "make" the words "not more than two".
35 91. Page 55, line 17, by striking the word and
36 figure "six (6)" and inserting in lieu thereof the
37 word and figure "five (5)".
38 92. Page 56, line 1, by inserting after the
39 word "months" the words "except with leave of court
40 for good cause shown".
41 93. Page 56, line 10, by striking the word and
42 figure "eighteen (18)" and inserting in lieu thereof
43 the word and figure "seventeen (17)".
44 94. Page 56, by striking lines 31 through 33
45 and inserting in lieu thereof the word "Act."
46 95. Page 57, line 28, by striking the word and
47 figure "forty-one (41)" and inserting in lieu thereof
48 the word and figure "forty-two (42)".
49 96. Page 57, line 29, by striking the word
50 "department" and inserting in lieu thereof the word

1 "department,".

2 97. Page 57, line 33, by striking the word and
3 figure "forty-one (41)" and inserting in lieu thereof
4 the word and figure "forty-two (42)".

5 98. Page 58, line 12, by striking the word and
6 figure "ten (10)" and inserting in lieu thereof the
7 word and figure "sixty-three (63)".

8 99. Page 59, line 27, by inserting after the
9 word "physically" the words "or sexually".

10 100. Page 61, by striking lines 12 through 14
11 and inserting in lieu thereof the following:
12 "If the court terminates the parental rights
13 of the child's natural or adoptive parents, the court
14 shall transfer the guardianship".

15 101. Page 61, line 24, by striking the word
16 and figure "six (6)" and inserting in lieu thereof
17 the word and figure "five (5)".

18 102. Page 61, line 29, by striking the word
19 "and" and inserting in lieu thereof the word "or".

20 103. Page 62, line 23, by striking the words
21 "or any other".

22 104. Page 63, line 5, by inserting after the
23 word "relationship" the words "and that the petitioner
24 has sought services from public or private agencies
25 to maintain and improve the familial relationship".

26 105. Page 63, line 11, by inserting after the
27 word "guardian." the words "The court shall appoint
28 counsel for the parent, guardian or custodian if that
29 person desires but is financially unable to employ
30 counsel."

31 106. Page 63, line 30, by striking the word
32 "unsuccessfully".

33 107. Page 64, lines 3 and 4, by striking the
34 words "such services" and inserting in lieu thereof
35 the words "any counseling ordered by the court".

36 108. Page 64, line 6, by striking the word
37 "services" and inserting in lieu thereof the word
38 "counseling".

39 109. Page 64, by striking lines 25 through 31.

40 110. Page 69, by striking lines 11 through 15.

41 111. Page 69, by inserting after line 22 the
42 following new subsection:
43 "2. Official juvenile court records in cases
44 alleging delinquency shall be public records."
45 112. Page 69, line 23, by inserting after the
46 word "records" the words "in all cases except those
47 alleging delinquency".

48 113. Page 69, line 24, by striking the word
49 "may" and inserting in lieu thereof the word "shall".

50 114. Page 70, line 12, by striking the words

1 "and legitimate".
2 115. Page 71, line 11, by striking the words
3 and figure "seven hundred forty-nine B (749B)" and
4 inserting in lieu thereof the words and figure "six
5 hundred ninety-two (692)" and by inserting after the
6 word "Code" the word "Supplement".
7 116. Page 71, line 35, by striking the word
8 and figure "seven (7)" and inserting in lieu thereof
9 the word and figure "nine (9)".
10 117. Page 73, line 6, by striking the words
11 and figures "seventy-four (74) and seventy-six (76)"
12 and inserting in lieu thereof the words and figures
13 "seventy-five (75) and seventy-seven (77)".
14 118. Page 74, by striking line 10 and inserting
15 in lieu thereof the words and figures "five (75)
16 through seventy-eight (78)".
17 119. Page 74, line 11, by striking the word
18 and figure "seven (77)".
19 120. Page 75, line 12, by striking the word
20 "Act," and lines 13 through 22 and inserting in lieu
21 thereof the word "Act."
22 121. Page 76, by striking lines 7 through 12
23 and inserting in lieu thereof the following:
24 "Sec. 90. Section three hundred fifty-six point
25 three (356.3), Code 1977, is amended to read as
26 follows:
27 356.3 MINORS SEPARATELY CONFINED. Any sheriff,
28 city marshal, or chief of police, having in his or
29 her care or custody any prisoner under the age of
30 eighteen years, shall keep such prisoner separate
31 and apart, and prevent communication by such prisoner
32 with prisoners above that age, while such prisoners
33 are not under the personal supervision of such offi-
34 cer, if suitable buildings or jails are provided for
35 that purpose, unless such prisoner is likely to or
36 does exercise an immoral influence over other minors
37 with whom he or she may be imprisoned.
38 A person under the age of eighteen years
39 prosecuted under this Act and not waived to criminal
40 court shall be confined in a jail only under the
41 conditions provided in this Act.
42 PARAGRAPH DIVIDED. Any officer having charge
43 of prisoners who without just cause or excuse neglects
44 or refuses to perform the duties imposed on him or
45 her by this section may be suspended or removed from
46 office therefor."
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Explanation

Subcommittee Amendment to House File 248

1. Strikes a general waiver of procedures section added by the House.

3. Eliminates a specific situational definition of abandonment in favor of the original general definition.

4., 5., 18. Marriage of a person under 18 results in that person's achieving adult status for purposes of child-in-need of assistance proceedings, but not for purposes of delinquency proceedings.

9. Provides that the symptoms listed relate only to "emotional damage" and not to "serious mental illness or disorder".

12. Requires person making a complaint to do so in writing.

14. Provides that only a person designated as intake officer shall perform the intake function.

15. Provides that the judge may appoint someone other than a probation officer as intake officer.

16. Clarifies intent of this section that arrest protections afforded adults must also be given to juveniles.

17. Provides that violations by juveniles of municipal traffic ordinances promulgated under home rule will be prosecuted in the same manner as violations by juveniles of state traffic laws.

19., 49. Child may not demand waiver to adult court, but has equal standing with county attorney to move the court for such waiver of jurisdiction.

21. Makes clear there is no situational restriction on the right to counsel once intake has commenced.

22., 23. Strikes the house amendment which makes an exemption from the nonwaivable right to counsel at intake for children under 14 in cases of certain delinquent acts of minor significance.

26., 78. Remove the ability to temporarily hold a runaway from the delinquency division and place it in the CINA division, to further clarify that running away is not a delinquent act.

27. Removes reference to prohibition on physical restraint of a child during the process of taking into custody.

30. Provides that only children whose disposition is to a secure facility may be detained in a secure facility while awaiting transfer to the disposition placement.

35., 36. Reduce the maximum duration of informal adjustment agreements from six to three months.

37. Evidence of failure of an informal agreement cannot be introduced in a subsequent delinquency adjudication on the same matter.

38. Changes requirement for reporting informal adjustments from semi-annual to annual.

46. Judge must make and file a good cause finding before ordering continuances of a case of a child being held in detention.

53. Makes clear that the investigatory report for a waiver hearing may include a recommendation.

55. Removes amendment added by the House intended to make clear that both a CINA and a delinquency petition could arise from the same circumstances.

57. Provides that promise of confidentiality to an information source shall not justify nondisclosure of a predisposition report to the subject of that report.

61., 62. Provide that proceedings for civil commitment of a child as mentally ill or mentally retarded may take place in the juvenile court rather than the district court.

64. Makes clear that only dispositions in which a child is placed in a secure facility are to conform to the limitations on adult imprisonment for the same type of offense.

66. Removes requirement that court acknowledge filing of reports.

68., 69., 70., 71., 72. Effect of all these sections is to permit an agency such as the D.S.S. which has custody of the child to modify the original disposition without notifying the court unless the proposed modification is more severe than the original disposition.

74., 102. Remove the attempt to legislate action affecting courts of other states.

77. Removes amendment added by House to the immunity provisions related to taking or keeping a child without court order.

85. Permits making of record by tape recording.

92. Permits a motion for change in disposition to be made by the child more often than once every six months if the court finds that justified.

99. Adds sexual abuse to the grounds for terminating the parent-child relationship.

104. Requires the allegation in the FINA petition of the fact that petitioner has sought services elsewhere.

105. Extends appointed counsel right to indigent parents in FINA cases.

109. Removes the possibility of placing the child in detention for two weeks as punishment for contempt of court orders in FINA cases.

110. Removes judicial review of juvenile home administration, and leaves all such oversight in the hands of the board of supervisors.

111., 112. Provides public access to court records in delinquency cases.

113. Assures the interested parties of access to all juvenile court records.

120. Removes procedures for voluntary commitments to the state juvenile home.

121. Provides that persons confining minors in jails, etc. must comply with the provisions of this bill.