

House File 248 2/25  
Judiciary and Law  
Enforcement  
Higgins, chair  
Gentleman  
Lipsky  
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Pelton

3 23 1977

HOUSE FILE 248

By COMMITTEE ON HUMAN RESOURCES

Judiciary & Law Enforcement *Passed for 3.546 6.44 (12.11.77)*

*See Judiciary 6/13*

Passed House, Date 5-3-77 (p 1844) Passed Senate, Date 5-

Vote: Ayes 91 Nays 7 Vote: Ayes            Nays           

Approved 6-7/3/78

# A BILL FOR

1 An Act relating to a complete revision of the juvenile  
2 justice laws and subjecting persons to existing  
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

1  
2 Section 1. NEW SECTION. RULES OF CONSTRUCTION. This  
3 chapter shall be liberally construed to the end that each  
4 child coming within the jurisdiction of the court shall  
5 receive, preferably in his or her own home, the care, guidance  
6 and control that will serve the child's welfare and the best  
7 interest of the state, and that when a child is removed from  
8 the control of his or her parents, the court shall secure  
9 for the child care as nearly as possible equivalent to that  
10 which should have been given him or her by his or her parents.

11 DEFINITIONS

12 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act  
13 unless the context otherwise requires:

14 1. "Abandonment of a child" means the permanent  
15 relinquishment or surrender, without reference to any  
16 particular person, of the parental rights, duties, or  
17 privileges inherent in the parent-child relationship. The  
18 term includes both the intention to abandon and the acts by  
19 which the intention is evidenced. The term does not require  
20 that the relinquishment or surrender be over a long or any  
21 particular period of time.

22 2. "Adjudicatory hearing" means a hearing to determine  
23 whether the allegations of a petition are true.

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

25 4. "Advocate" means a person appointed by the county board  
26 of supervisors to represent the interests of the child at  
27 the intake stage of juvenile delinquency proceedings. An  
28 officer of the court, an employee of a criminal justice agency,  
29 or an employee of the department of social services may not  
30 be an advocate.

31 5. "Child" means:

32 a. A person under eighteen years of age; or

33 b. A person eighteen years of age or older who is alleged  
34 to have committed a delinquent act prior to having become  
35 eighteen years of age, provided that the alleged commission

1 of the delinquent act did not occur more than three years  
2 prior to the taking of the person into custody for the act  
3 or prior to the filing of a delinquency petition alleging  
4 the commission of the act.

5 6. "Child in need of assistance" means a child:

6 a. Whose parent, guardian or other custodian has aban-  
7 doned the child.

8 b. Whose parent, guardian or custodian has physically  
9 abused or neglected the child or is imminently likely to abuse  
10 or neglect the child and thereby causes or creates a  
11 substantial risk of death, disfigurement, or impairment of  
12 bodily functions.

13 c. Who has suffered physical abuse or neglect or with  
14 respect to whom there is a substantial likelihood of physical  
15 abuse or neglect as a result of:

16 (1) Conditions created by the child's parent, guardian  
17 or custodian; or

18 (2) The failure of the child's parent, guardian, or  
19 custodian to exercise a minimum degree of care in supervising  
20 the child.

21 d. Who has been sexually abused by his or her parent,  
22 guardian, custodian or other member of the household in which  
23 the child resides.

24 e. Who is in need of medical treatment to cure, alle-  
25 viate, or prevent his or her suffering serious physical injury  
26 or illness and whose parent, guardian, or custodian is unwill-  
27 ing to provide such treatment although financially able to  
28 do so or although offered financial or other reasonable means  
29 to do so.

30 f. Who is in need of treatment to cure or alleviate serious  
31 mental illness or disorder or emotional damage as evidenced  
32 by severe anxiety, depression, withdrawal or untoward  
33 aggressive behavior toward others and whose parent, guardian,  
34 or custodian is unwilling to provide such treatment although  
35 financially able to do so or although offered financial or

1 other reasonable means to do so.

2 g. Whose parent, guardian, or custodian fails to exercise  
3 a minimum degree of care in supplying the child with adequate  
4 food, clothing or shelter though financially able to do so  
5 or offered financial or other reasonable means to do so.

6 h. Who has committed a delinquent act as a result of  
7 pressure, guidance, or approval from a parent, guardian, or  
8 custodian.

9 7. "Commissioner" means the commissioner of the department  
10 of social services or that person's designee.

11 8. "Complaint" means a report which is made to the juvenile  
12 court by any person and which alleges that a child is within  
13 the jurisdiction of the court.

14 9. "Court" means the juvenile court established in chap-  
15 ter two hundred thirty-one (231) of the Code.

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

20 11. "Custodian" means a stepparent or a relative within  
21 the fourth degree of consanguinity to a minor child who has  
22 assumed responsibility for that child, a person who has  
23 accepted a release of custody pursuant to division four (IV),  
24 or a person appointed by a court or juvenile court having  
25 jurisdiction over a child. The rights and duties of a  
26 custodian with respect to a child shall be as follows:

27 a. To maintain or transfer to another the physical  
28 possession of that child.

29 b. To protect, train, and discipline that child.

30 c. To provide food, clothing, housing, and ordinary medical  
31 care for that child.

32 d. To consent to emergency medical care, including surgery.

33 e. To sign a release of medical information to a health  
34 professional.

35 All rights and duties of a custodian shall be subject to

1 any residual rights and duties remaining in a parent or  
2 guardian.

3 12. "Delinquent act" means:

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

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

12 13. "Delinquent child" means a child who has been  
13 adjudicated to have committed a delinquent act.

14 14. "Department" means the department of social services  
15 and includes the local, county and regional officers of the  
16 department.

17 15. "Detention" means the temporary care of a child in  
18 a physically restricting facility designed to insure the  
19 continued custody of the child at any point between the child's  
20 initial contact with the juvenile authorities and the final  
21 disposition of his or her case.

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

25 17. "Dismissal of complaint" means the termination at  
26 intake of all proceedings against a child.

27 18. "Dispositional hearing" means a hearing held after  
28 an adjudication to determine what dispositional order should  
29 be made.

30 19. "Family in need of assistance" means a family in which  
31 there has been a breakdown in the relationship between a child  
32 and his or her parent, guardian or custodian.

33 20. "Guardian" means a person who is not the parent of  
34 a minor child but who has been appointed by a court or juvenile  
35 court having jurisdiction over the minor child to make

1 important decisions which have a permanent effect on the life  
2 and development of that child and to promote the general  
3 welfare of that child. A guardian may be a court or a juvenile  
4 court. Guardian does not mean conservator, as defined in  
5 section six hundred thirty-three point three (633.3) of the  
6 Code, although a person who is appointed to be a guardian  
7 may also be appointed to be a conservator.

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

12 a. To consent to marriage, enlistment in the armed forces  
13 of the United States, or medical, psychiatric, or surgical  
14 treatment.

15 b. To serve as guardian ad litem, unless the interests  
16 of the guardian conflict with the interests of the minor child  
17 or unless another person has been appointed guardian ad litem.

18 c. To serve as custodian, unless another person has been  
19 appointed custodian.

20 d. To make reasonable visitations if the guardian does  
21 not have physical possession or custody of the minor child.

22 e. To consent to adoption and to make any other decision  
23 that the parents could have made when the parent-child  
24 relationship existed.

25 21. "Guardian ad litem" means a person appointed by the  
26 court to represent the interests of the child in any judicial  
27 proceeding to which the child is a party.

28 22. "Health practitioner" means a licensed physician or  
29 surgeon, osteopath, osteopathic physician or surgeon, dentist,  
30 optometrist, podiatrist or chiropractor, a resident or intern  
31 of any such profession, and any registered nurse or licensed  
32 practical nurse.

33 23. "Informal adjustment" means the disposition of a  
34 complaint at intake without the filing of a petition and may  
35 include but is not limited to the following:

- 1 a. Placement of the child on nonjudicial probation.
- 2 b. Provision of intake services.
- 3 c. Referral of the child to a public or private agency
- 4 other than the court for services.

5 24. "Informal adjustment agreement" means an agreement  
6 between an intake officer, a child who is the subject of a  
7 complaint, and the child's parent, guardian or custodian pro-  
8 viding for the informal adjustment of the complaint.

9 25. "Intake" means the preliminary screening of complaints  
10 to determine whether the court should take some action and  
11 if so, what action.

12 26. "Intake officer" means a juvenile probation officer  
13 authorized by the court to perform the intake function.

14 27. "Judge" means the judge of a juvenile court.

15 28. "Juvenile court social records" or "social records"  
16 means all records made with respect to a child in connection  
17 with proceedings over which the court has jurisdiction under  
18 this Act other than official records and includes but is not  
19 limited to the records made and compiled by intake officers,  
20 predisposition reports, and reports of physical and mental  
21 examinations.

22 29. "Juvenile detention home" means a physically restrict-  
23 ing facility used only for the detention of children.

24 30. "Juvenile parole officer" means a person representing  
25 an agency which retains jurisdiction over the case of a child  
26 adjudicated delinquent, placed in secure facility and  
27 subsequently released, who supervises the activities of the  
28 child until the case is dismissed.

29 31. "Juvenile probation officer" or "probation officer"  
30 means a person appointed as a juvenile probation officer under  
31 section two hundred thirty-one point eight (231.8) of the  
32 Code.

33 32. "Juvenile shelter care home" means a physically unre-  
34 stricting facility used only for the shelter care of children.

35 33. "Nonjudicial probation" means the informal adjustment

1 of a complaint which involves the supervision of the child  
2 who is the subject of the complaint by an intake officer or  
3 probation officer for a period during which the child may  
4 be required to comply with specified conditions concerning  
5 his or her conduct and activities.

6 34. "Nonsecure facility" means a physically unrestricting  
7 facility in which children adjudicated delinquent may be  
8 placed pursuant to a dispositional order of the court.

9 35. "Official juvenile court records" or "official records"  
10 means official records of the court of proceedings over which  
11 the court has jurisdiction under this Act which includes but  
12 is not limited to the following:

13 a. The docket of the court and entries therein.

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

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

18 d. Transcripts of proceedings before the court.

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

20 36. "Parent" means a natural or adoptive mother or father  
21 of a child but does not include a mother or father whose  
22 parental rights have been terminated.

23 37. "Peace officer" means a law enforcement officer or  
24 a person designated as a peace officer by a provision of the  
25 Code.

26 38. "Petition" means a pleading the filing of which ini-  
27 tiates formal judicial proceedings in the juvenile court.

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

33 40. "Predisposition investigation" means an investigation  
34 conducted for the purpose of collecting information relevant  
35 to the court's fashioning of an appropriate disposition of

1 a delinquency case over which the court has jurisdiction.

2 41. "Predisposition report" is a report furnished to the  
3 court which contains the information collected during a pre-  
4 disposition investigation.

5 42. "Probation" means a legal status which is created  
6 by a dispositional order of the court in a case where a child  
7 has been adjudicated delinquent, which exists for a specified  
8 period of time, and which places the child under the  
9 supervision of a juvenile probation officer or other person  
10 or agency designated by the court. The probation order may  
11 require a child to comply with specified conditions imposed  
12 by the court concerning conduct and activities, subject to  
13 being returned to the court for violation of those conditions.

14 43. "Provision of intake services" means the informal  
15 adjustment of a complaint which involves the provision of  
16 services by an intake officer to a child who is the subject  
17 of a complaint on a continuing basis for a specified period  
18 of time.

19 44. "Registry" means the central registry for child abuse  
20 information as established under chapter two hundred thirty-  
21 five A (235A) of the Code.

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

28 46. "Secure facility" means a physically restricting  
29 facility in which children adjudicated delinquent may be  
30 placed pursuant to a dispositional order of the court.

31 47. "Sexual abuse" means the commission of a sex offense  
32 as defined by the penal law.

33 48. "Shelter care" means the temporary care of a child  
34 in a physically unrestricting facility at any point between  
35 a child's initial contact with juvenile authorities and the

1 final judicial disposition of his or her case.

2 49. "Shelter care hearing" means a hearing at which the  
3 court determines whether it is necessary to place or retain  
4 a child in shelter care.

5 50. "Social investigation" means an investigation conducted  
6 for the purpose of collecting information relevant to the  
7 court's fashioning of an appropriate disposition of a child  
8 in need of assistance case over which the court has  
9 jurisdiction.

10 51. "Social report" means a report furnished to the court  
11 which contains the information collected during a social  
12 investigation.

13 52. "Taking into custody" means an act which would be  
14 governed by the laws of arrest under the criminal code if  
15 the subject of the act were an adult.

16 53. "Termination hearing" means a hearing held to deter-  
17 mine whether the court should terminate a parent-child  
18 relationship.

19 54. "Termination of the parent-child relationship" means  
20 the divestment of the parent and child of all legal rights,  
21 privileges, duties and powers with respect to each other.

22 55. "Waiver hearing" means a hearing at which the court  
23 determines whether it shall waive its jurisdiction over a  
24 child alleged to be delinquent so that the state may prosecute  
25 the child as if the child were an adult.

26 DIVISION II

27 JUVENILE DELINQUENCY PROCEEDINGS

28 PART 1

29 GENERAL PROVISIONS

30 Sec. 3. NEW SECTION. JURISDICTION.

31 1. The juvenile court shall have exclusive original  
32 jurisdiction in proceedings concerning any child who is alleged  
33 to be a delinquent unless otherwise provided by law.

34 2. A case involving a person charged in a court other  
35 than the juvenile court with the commission of a public offense

1 not exempted by law from the jurisdiction of the juvenile  
2 court and who was under eighteen years of age at the time  
3 of the alleged commission of the offense shall immediately  
4 be transferred to the juvenile court. The transferring court  
5 shall order a transfer and shall forward the transfer order  
6 together with all papers, documents and a transcript of all  
7 testimony filed or admitted into evidence in connection with  
8 the case to the clerk of the juvenile court. The jurisdiction  
9 of the juvenile court shall attach immediately upon the signing  
10 of an order of transfer. From the time of transfer the  
11 custody, shelter care and detention of the person alleged  
12 to be or to have been a delinquent child shall be in accordance  
13 with the provisions of this Act and the case shall be processed  
14 in accordance with the provisions of this Act.

15 3. The juvenile court, after a hearing and in accordance  
16 with the provisions of section twenty-five (25) of this Act,  
17 may waive jurisdiction of a child alleged to have committed  
18 a public offense so that the child may be prosecuted as an  
19 adult for such offense in another court. If the child pleads  
20 guilty or is found guilty of a public offense in another court  
21 of this state that court may, with the consent of the child,  
22 defer judgment and without regard to restrictions placed upon  
23 deferred judgments for adults, place the child on probation  
24 for a period not less than one year upon such conditions as  
25 it may require. Upon fulfillment of the conditions of  
26 probation the child shall be discharged without entry of  
27 judgment.

28 Sec. 4. NEW SECTION. VENUE.

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

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

35 a. When it appears that the best interests of the minor

1 or society or the convenience of the parties will be served  
2 by a transfer, the court may transfer the case to the court  
3 of the county of the child's residence.

4 b. With the consent of the receiving court the court may  
5 transfer the case to the court of the county where the minor  
6 is found.

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

9 3. The court shall transfer the case by ordering the  
10 transfer and a continuance and by forwarding to the clerk  
11 of the receiving court a certified copy of all papers filed  
12 together with an order of transfer. The judge of the receiving  
13 court may accept the filings of the transferring court  
14 or may direct the filing of a new petition and hear the case  
15 anew.

16 Sec. 5. NEW SECTION. RIGHT TO ASSISTANCE OF COUNSEL.

17 1. A child shall have the right to be represented by counsel  
18 at every stage of proceeding under division two (II) of  
19 this Act, including:

20 a. At the intake stage prior to and during any questioning  
21 at an intake interview or otherwise and in connection  
22 with any discussion regarding an informal adjustment agreement.

23 b. A detention or shelter care hearing as required by  
24 section twenty-four (24) of this Act.

25 c. A waiver hearing as required by section twenty-five  
26 (25) of this Act.

27 d. An adjudicatory hearing required by section twenty-  
28 seven (27) of this Act.

29 e. A dispositional hearing as required by section thirty  
30 (30) of this Act.

31 f. Hearings to review and modify a dispositional order  
32 as required by section thirty-four (34) of this Act.

33 2. The child's right to be represented by counsel under  
34 subsection one (1), paragraphs b through f of this section  
35 shall not be waived.

1 3. The court shall appoint counsel to represent a child  
2 who is entitled to such representation or order the child's  
3 parent, guardian or legal custodian to retain counsel to  
4 represent the child, if:

5 a. The child is not represented by counsel; and

6 b. The court determines, after giving the child's parent,  
7 guardian or legal custodian an opportunity to be heard, that  
8 such person has the ability in whole or in part to pay for  
9 the employment of an attorney to represent the child.

10 4. Counsel appointed by the court pursuant to this section  
11 shall be reimbursed according to the provisions of section  
12 seventy-two (72), subsection one (1), paragraph d of this  
13 Act. If the court determines, after an inquiry which includes  
14 notice and reasonable opportunity to be heard that the parent,  
15 guardian or custodian has the ability to pay in whole or in  
16 part for the attorney appointed for the child, the court may  
17 order that person to pay such sums as the court finds  
18 appropriate in the manner and to whom the court directs.  
19 If the person so ordered fails to comply with the order without  
20 good reason, he or she may be proceeded against for contempt  
21 of court, or by action of the county attorney to collect,  
22 or both.

23 5. The court shall appoint counsel to represent a child  
24 who is entitled to such representation, if:

25 a. The child is not represented by counsel and the court  
26 determines that the child's parent, guardian or custodian  
27 is financially unable to retain counsel; or

28 b. The court determines that there is a conflict of  
29 interest between the child and his or her parent, guardian  
30 or custodian and that counsel retained to represent the child  
31 by the parent, guardian or custodian could not properly  
32 represent the child as a result of the conflict.

33 Sec. 6. NEW SECTION. APPOINTMENT OF ADVOCATE. The board  
34 of supervisors of each county shall appoint an advocate to  
35 represent the interests of any child who has waived the right

1 to counsel at the intake stage of juvenile delinquency  
2 proceedings. The advocate shall be reimbursed according to  
3 the provisions of section seventy-two (72) of this Act.

4 Sec. 7. NEW SECTION. COMMUNICATIONS CONFIDENTIAL.  
5 Communications between the advocate and the child shall be  
6 confidential as provided in section six hundred twenty-two  
7 point ten (622.10) of the Code.

8 Sec. 8. NEW SECTION. DUTIES OF COUNTY ATTORNEY. Upon  
9 the filing of a petition the county attorney shall represent  
10 the state in all proceedings arising under this division and  
11 shall present evidence in support of the petition.

12 PART 2

13 TAKING A CHILD INTO CUSTODY; DETENTION AND SHELTER CARE

14 Sec. 9. NEW SECTION. TAKING A CHILD INTO CUSTODY.

15 1. A child may be taken into custody:

16 a. Pursuant to an order of the court.

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

19 c. By a peace officer when he or she has reasonable grounds  
20 to believe the child has run away from his or her parents,  
21 guardian or other custodian.

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

26 2. When a child is taken into custody as provided in sub-  
27 section one (1) of this section the person taking the child  
28 into custody shall notify the child's parent, guardian or  
29 custodian as soon as possible. Unless the child is placed  
30 in shelter care or detention in accordance with the provisions  
31 of section ten (10) of this Act, the child shall be released  
32 to the child's parent, guardian, custodian, responsible adult  
33 relative or other adult approved by the court upon the promise  
34 of such person to produce the child in court, if necessary,  
35 at such time as the court may direct.

1 Sec. 10. NEW SECTION. GROUNDS FOR PLACEMENT IN SHELTER  
2 CARE OR DETENTION.

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

5 a. The child has no parent, guardian, custodian,  
6 responsible adult relative or other adult approved by the  
7 court who will provide proper shelter, care, and supervision  
8 for him or her.

9 b. The child desires to be placed or remain in shelter  
10 care.

11 c. It is necessary to hold the child until his or her  
12 parent, guardian or custodian has been contacted and has taken  
13 custody of the child.

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

16 2. No child shall be placed or retained in detention  
17 unless there is probable cause to believe the child has  
18 committed a delinquent act and:

19 a. There is a substantial probability that the child will  
20 run away or otherwise be unavailable for subsequent court  
21 appearance; or

22 b. The child is being held under warrant for another  
23 jurisdiction; or

24 c. The child is an escapee from a juvenile correctional  
25 or penal institution; or

26 d. There is probable cause to believe that a child has  
27 violated conditions of release imposed under section thirty-  
28 four (34) of this Act and there is a substantial probability  
29 that the child will run away or be otherwise unavailable for  
30 subsequent court appearance; or

31 e. There is a serious risk that the child if released  
32 may commit an act which would inflict serious bodily harm  
33 on himself or herself or on another.

34 3. The grounds for placement of a child in shelter care  
35 or detention specified in subsections one (1) and two (2)

1 of this section shall govern the decision of all persons  
2 responsible for determining whether a child should be placed  
3 or remain in shelter care or detention.

4 Sec. 11. NEW SECTION. ADMISSION OF CHILD TO SHELTER CARE  
5 OR DETENTION.

6 1. If a child is taken into custody and not released as  
7 provided in section nine (9), subsection two (2), of this  
8 Act, the child shall immediately be taken to a detention or  
9 shelter care facility as specified in section twelve (12)  
10 of this Act.

11 2. When a child is admitted to a detention or shelter  
12 care facility the person in charge of the facility or his  
13 or her designated representative shall notify the court, the  
14 child's attorney and the child's parent, guardian, or custodian  
15 as soon as possible of the admission and the reasons for that  
16 admission.

17 3. No child shall be detained in a police station, lockup,  
18 jail, prison or other facility intended or used for the deten-  
19 tion of adults for a period in excess of twelve hours without  
20 a court order authorizing such detention. No child shall  
21 be detained in a juvenile detention facility or other suitable  
22 place designated by the court for the detention of a child  
23 as specified in section twelve (12) of this Act for a period  
24 in excess of twenty-four hours without a court order  
25 authorizing such detention. No child shall be held in a  
26 shelter care facility or other suitable place designated by  
27 the court for the shelter care of a child as specified in  
28 section twelve (12) of this Act for a period in excess of  
29 forty-eight hours without a court order authorizing such  
30 shelter care.

31 4. The court shall hold a hearing concerning the continued  
32 retention of a child in shelter care or detention in accor-  
33 dance with the provisions of section twenty-four (24) of this  
34 Act.

35 Sec. 12. NEW SECTION. SHELTER CARE AND DETENTION--WHERE.

1 1. A child may be placed in shelter care as provided in  
2 section ten (10), subsection one (1), of this Act only in  
3 one of the following facilities:

4 a. A juvenile shelter care home.

5 b. A licensed foster home.

6 c. An institution or other facility operated by the  
7 department of social services, or an institution or other  
8 facility which is licensed or otherwise authorized by law  
9 to receive and provide care for the child.

10 d. Any other suitable place designated by the court pro-  
11 vided that no place used for the detention of a child may  
12 be so designated.

13 2. A child may be detained as provided in section ten  
14 (10), subsection two (2), of this Act only in one of the  
15 following:

16 a. A juvenile detention home.

17 b. Any other suitable place designated by the court.

18 c. A room in a police station, jail, lockup, or other  
19 facility intended or used for the detention of adults upon  
20 the written order of a judge or magistrate or for a period  
21 of up to twelve hours without such an order if:

22 (1) The child is at least fourteen years or older; and

23 (2) The child has shown by his or her conduct, habits,  
24 or condition that he or she constitutes an immediate and  
25 extreme danger to himself or herself or the public, and a  
26 facility or place enumerated in subsections a or b of this  
27 section is unavailable or the court determines that the child's  
28 conduct or condition endangers the safety of others in the  
29 facility; and

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

32 (4) The child is confined in a room entirely separated  
33 from confined adults.

34 d. A place used for the detention of children prior to  
35 an adjudicatory hearing may also be used for the detention

1 of children adjudicated delinquent only for a period of up  
2 to twenty-four hours while the adjudicated child is awaiting  
3 transfer to the disposition placement.

4 PART 3

5 INTAKE

6 Sec. 13. DUTIES OF ADVOCATE. The advocate shall be present  
7 during all contacts between the intake officer and the child  
8 alleged to be delinquent. If the advocate finds that the  
9 child's interests require the presence of counsel, he or she  
10 may demand suspension of the intake proceedings and petition  
11 the court for appointment of an attorney for the child pursuant  
12 to section five (5), subsections three (3), four (4), and  
13 five (5), of this Act. Nothing in this section shall preclude  
14 the child or the child's parent, guardian or custodian from  
15 retaining counsel to represent the child.

16 Sec. 14. NEW SECTION. INTAKE.

17 1. Any person having knowledge of the facts may file a  
18 complaint with the court alleging a child to be a delinquent.

19 2. The court shall refer the complaint to an intake offi-  
20 cer who shall conduct a preliminary inquiry to determine what  
21 action should be taken.

22 3. The intake officer, consulting with the county attor-  
23 ney when necessary, shall determine whether the complaint  
24 is legally sufficient for the filing of a petition. A  
25 complaint shall be deemed legally sufficient for the filing  
26 of a petition if the facts as alleged are sufficient to  
27 establish the jurisdiction of the court and probable cause  
28 to believe that the child is a delinquent. If the intake  
29 officer determines that the complaint is legally sufficient  
30 to support the filing of a petition, the officer shall  
31 determine whether the interests of the child and the public  
32 will best be served by the dismissal of the complaint, the  
33 informal adjustment of the complaint, or the filing of a  
34 petition.

35 4. In the course of a preliminary inquiry, the intake

1 officer may:

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

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

6 c. Hold conferences with the child and his or her parent,  
7 guardian or custodian for the purpose of interviewing them  
8 and discussing the disposition of the complaint in accor-  
9 dance with the requirements set forth in subsection eight  
10 (8) of this section.

11 5. Any additional inquiries may be made only with the  
12 consent of the child and his or her parent, guardian or  
13 custodian.

14 6. Participation of the child and his or her parent,  
15 guardian or custodian in a conference with an intake officer  
16 shall be voluntary, and they shall have the right to refuse  
17 to participate in such conference. At such conference the  
18 child shall have the right to the assistance of counsel and  
19 the right to remain silent when questioned by the intake  
20 officer.

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

26 8. If the intake officer determines that the complaint  
27 is legally sufficient for the filing of a petition and that  
28 an informal adjustment of the complaint is in the best inter-  
29 ests of the child and the community, the officer may make  
30 an informal adjustment of the complaint in accordance with  
31 section fifteen (15) of this Act.

32 9. If the intake officer determines that the complaint  
33 is legally sufficient for the filing of a petition and that  
34 the filing of a petition is in the best interests of the  
35 juvenile and the public, the officer may request the county

1 attorney to file a petition in accordance with section sixteen  
2 (16) of this Act.

3 Sec. 15. NEW SECTION. INFORMAL ADJUSTMENT.

4 1. The informal adjustment of a complaint is a permis-  
5 sible disposition of a complaint at intake subject to the  
6 following conditions:

7 a. The child has admitted his or her involvement in a  
8 delinquent act.

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

13 c. Any informal adjustment agreement shall be entered  
14 into voluntarily and intelligently by the child with the  
15 advice of his or her attorney and of the child's parent,  
16 guardian or custodian.

17 d. The terms of such agreement shall be clearly stated  
18 in writing and signed by all parties to the agreement.

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

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

25 g. The child and his or her parent, guardian or custodian  
26 shall have the right to terminate such agreement at any time  
27 and to request the filing of a petition and a formal  
28 adjudication.

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

1 tion by the court.

2 i. The person performing the duties of intake officer  
3 shall, at least every six months, file a report with the court  
4 listing the number of informal adjustments made during the  
5 reporting time, the conditions imposed in each case, the  
6 number of informal adjustments resulting in dismissal without  
7 the filing of a petition, and the number of informal  
8 adjustments resulting in the filing of a petition upon the  
9 original complaint.

10 PART 4

11 JUDICIAL PROCEEDINGS

12 Sec. 16. NEW SECTION. FILING OF PETITION.

13 1. A formal judicial proceeding to determine whether a  
14 child is a delinquent under this Act shall be initiated by  
15 the filing by the county attorney of a petition alleging a  
16 child to be delinquent.

17 2. If the intake officer determines that a complaint is  
18 legally sufficient for the filing of a petition alleging a  
19 child to be delinquent and that the filing of a petition would  
20 be in the best interests of the child and the community, the  
21 officer shall submit a written request for the filing of a  
22 petition to the county attorney. The county attorney may  
23 grant or deny the request of the intake officer for the filing  
24 of a petition. A determination by the county attorney that  
25 a petition should not be filed shall be final.

26 3. If the intake officer determines that a complaint is  
27 not legally sufficient for the filing of a petition or that  
28 the filing of a petition would not be in the best interests  
29 of the child and the community, the officer shall notify the  
30 complainant of his or her determination and the reasons for  
31 such determination, and shall advise the complainant that  
32 he or she may submit the complaint to the county attorney  
33 for review. Upon receiving a request for review, the county  
34 attorney shall consider the facts presented by the complainant,  
35 consult with the intake officer and make the final

1 determination as to whether a petition should be filed. In  
2 the absence of a request by the complainant for a review of  
3 the intake officer's determination that a petition should  
4 not be filed, the officer's determination shall be final.

5 Sec. 17. NEW SECTION. CONTENTS OF PETITION.

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

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

10 3. The petition shall set forth plainly:

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

13 b. The names and residences of any:

14 (1) Living parent of the child.

15 (2) Guardian of the child.

16 (3) Legal custodian of the child.

17 (4) Guardian ad litem.

18 c. With reasonable particularity, the time, place and  
19 manner of the delinquent act alleged and the penal law alleg-  
20 edly violated by such act.

21 4. If any of the facts required under subsection three  
22 (3), paragraphs a and b of this section are not known by the  
23 petitioner, the petition shall so state.

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

26 Sec. 18. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND  
27 SERVICE.

28 1. After a petition has been filed and unless the parties  
29 named in subsection two (2) of this section voluntarily appear,  
30 the court shall set a time for hearing and shall issue a  
31 summons requiring the child to appear before the court at  
32 a time and place stated and requiring the person who has  
33 custody or control of the child to appear before the court  
34 and to bring the child with him or her at that time. The  
35 summons shall attach a copy of the petition and shall give

1 notification of the right to counsel provided for in section  
2 five (5) of this Act.

3 2. The court shall have notice of the pendency of the  
4 case served upon the known parent, guardian or legal custodian  
5 of a child if this person is not summoned to appear as provided  
6 in subsection one (1) of this section. The court shall also  
7 have notice served upon the child and upon the child's guardian  
8 ad litem, if any. The notice shall attach a copy of the  
9 petition and shall give notification of the right to counsel  
10 provided for in section five (5) of this Act.

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

17 4. Service of summons or notice shall be made personally  
18 by the delivery of a copy thereof to the person being served.  
19 If the court determines that personal service of a summons  
20 or notice is impracticable, the court may order service by  
21 certified mail addressed to the last known address or by  
22 publication or both. Service of summons or notice shall be  
23 made not less than five days before the time fixed for hearing.  
24 Service of summons, notice, subpoenas or other process, after  
25 an initial valid summons or notice, shall be made in accordance  
26 with the rules of the court governing such service in civil  
27 actions.

28 5. If a person personally served with a summons or sub-  
29 poena fails without reasonable cause to appear or to bring  
30 the child, the person may be proceeded against for contempt  
31 of court or the court may issue an order for the arrest of  
32 such person or both the arrest of the person and the taking  
33 into custody of the child.

34 6. The court may issue an order for the removal of the  
35 child from the custody of his or her parent, guardian or

1 custodian when there exists an immediate threat that the  
2 parent, guardian or custodian will flee the state with the  
3 child, or when it appears that the child's immediate removal  
4 is necessary to avoid imminent danger to the child's life  
5 or health.

6 Sec. 19. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS.

7 1. Any hearings or proceedings under this division sub-  
8 sequent to the filing of a petition shall not take place  
9 without the presence of one or both of the child's parents,  
10 guardian or custodian except that a hearing or proceeding  
11 may take place without such presence if the parent, guardian  
12 or custodian fails to appear after reasonable notification.

13 2. In any such hearings or proceedings the court may  
14 temporarily excuse the presence of the parent, guardian or  
15 custodian when the court deems it in the best interests of  
16 the child. Counsel for the parent, guardian or custodian  
17 shall have the right to participate in a hearing or proceed-  
18 ing during the absence of the parent, guardian or custodian.

19 Sec. 20. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS.

20 The court shall exclude the general public from hearings and  
21 proceedings under this division. The court shall admit the  
22 news media except in those cases in which, in the opinion  
23 of the court, the best interests of the child and the public  
24 are served by a private hearing, and the court shall admit  
25 in its discretion those persons who have a direct interest  
26 in the case or the work of the court.

27 Sec. 21. NEW SECTION. OTHER ISSUES ADJUDICATED. When

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

34 Sec. 22. NEW SECTION. REPORTER REQUIRED. Stenographic

35 notes or mechanical recordings shall be taken of all court

1 hearings held pursuant to this division unless waived by the  
2 parties. The child shall not be competent to waive the  
3 reporting requirement, but waiver may be made for the child  
4 by the child's counsel or guardian ad litem. Matters which  
5 must be reported under the provisions of this section shall  
6 be the same as those required in section six hundred twenty-  
7 four point nine (624.9) of the Code.

8 Sec. 23. NEW SECTION. ANSWER--PLEA AGREEMENT--ACCEPTANCE  
9 OF PLEA ADMITTING ALLEGATIONS OF PETITION.

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

14 2. The county attorney and the child's counsel may engage  
15 in discussion with a view toward reaching a plea agreement  
16 which contemplates entry of a plea admitting the allegations  
17 of the petition in the expectation that other charges will  
18 be dismissed or not filed or that a specific disposition will  
19 be recommended by the county attorney and granted by the  
20 court. Any plea discussion shall be open to the child and  
21 the child's parent, guardian or custodian.

22 3. The court shall not accept a plea admitting the alle-  
23 gations of the petition without first addressing the child  
24 personally in court, determining that the plea is voluntary  
25 and not the result of any force or threats or promises other  
26 than promises made in connection with a plea agreement and  
27 informing the child of and determining that the child  
28 understands the following:

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

31 b. The severest possible disposition and the maximum  
32 length of such disposition which the court may order if the  
33 court accepts his or her plea.

34 c. That he or she has the right to deny the allegations  
35 of the petition.

1 d. That if he or she admits the allegations of the petition  
2 he or she waives the right to a further adjudicatory hearing.

3 4. The court shall not accept a plea admitting the  
4 allegations of the petition without first addressing the  
5 county attorney and the child's counsel in court and making  
6 an inquiry into whether such a plea is the result of a plea  
7 agreement. The court shall require the disclosure of the  
8 terms of any such agreement in court. If a plea agreement  
9 has been reached which contemplates entry of the plea in the  
10 expectation that the court will order a specific disposition  
11 or dismiss other charges against the child before the court,  
12 the court shall indicate to the parties whether the court  
13 will concur in the proposed disposition or dismissal of  
14 charges. If the court will not concur in such disposition  
15 or dismissal, the court should address the child personally  
16 and advise the child of this fact, advise the child that the  
17 disposition of the case may be less favorable to the child  
18 than that contemplated by the plea agreement, and afford the  
19 child the opportunity to withdraw the plea. If the court  
20 defers decision as to whether the court will concur with the  
21 proposed disposition or dismissal until there has been an  
22 opportunity to consider the predisposition report, the court  
23 shall advise the child that the court is not bound by the  
24 plea agreement and afford the child the opportunity to with-  
25 draw the plea.

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

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

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

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

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

4 Sec. 24. NEW SECTION. DETENTION OR SHELTER CARE HEARING-  
5 -RELEASE FROM DETENTION UPON CHANGE OF CIRCUMSTANCE.

6 1. A hearing shall be held within forty-eight hours,  
7 excluding Sundays and legal holidays, of the time of the  
8 child's admission to a detention or shelter care facility.  
9 If the hearing is not held within the time specified, the  
10 child shall be released from shelter care or detention. Prior  
11 to the hearing a petition shall be filed, except where the  
12 child is already under the supervision of a juvenile court  
13 under a prior judgment.

14 2. The county attorney or a juvenile probation officer  
15 may apply for a hearing at any time after the petition is  
16 filed to determine whether the child who is the subject of  
17 the petition should be placed in detention or shelter care.  
18 The court may upon the application or upon its own motion  
19 order such hearing.

20 3. Notice stating the time, place, and purpose of the  
21 hearing shall be served personally upon the child, the child's  
22 attorney, the child's guardian ad litem if any, and the child's  
23 known parent, guardian or custodian not less than twenty-four  
24 hours before the time the hearing is scheduled to begin.

25 4. At the hearing the court shall admit only testimony  
26 and other evidence relevant to the determination of whether  
27 there is probable cause to believe the child has committed  
28 the act as alleged in the petition and to the determination  
29 of whether the placement of the child in detention or shelter  
30 care is authorized under section ten (10) of this Act. Any  
31 written reports or records made available to the court at  
32 the hearing shall be made available to the parties. A copy  
33 of the petition shall be given to each of the parties at or  
34 before the hearing.

35 5. The court shall find release to be proper under the

1 following circumstances:

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

6 b. If the court finds that detention or shelter care is  
7 not authorized under section ten (10) of this Act, or is  
8 authorized but not warranted in a particular case, the court  
9 shall order the child's release, and in so doing, may impose  
10 one or more of the following conditions:

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

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

17 (3) Impose any other condition deemed reasonably neces-  
18 sary and consistent with the grounds for detaining children  
19 specified in section ten (10) of this Act, including a con-  
20 dition requiring that the child return to custody as required.

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

27 6. If the court finds that there is probable cause to  
28 believe that the child is within the jurisdiction of the court  
29 under this Act and that full-time detention or shelter care  
30 is authorized under section ten (10) of this Act, it may issue  
31 an order authorizing either shelter care or detention for  
32 up to seven days or until the adjudicatory hearing is held  
33 if that hearing is held within seven days.

34 7. If a child held in shelter care or detention by court  
35 order has not been released after a detention hearing or has

1 not appeared at an adjudicatory hearing before the expiration  
2 of the order of detention, an additional hearing shall auto-  
3 matically be scheduled for the next court day following the  
4 expiration of the order. The child, the child's counsel,  
5 the child's guardian ad litem, and the child's parent, guardian  
6 or custodian shall be notified of this hearing not less than  
7 twenty-four hours before the hearing is scheduled to take  
8 place.

9 8. A child held in a detention or shelter care facility  
10 under order of court after a hearing may be released upon  
11 a showing that a change of circumstances makes continued  
12 detention unnecessary.

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

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

26 Sec. 25. NEW SECTION. WAIVER HEARING AND WAIVER OF  
27 JURISDICTION.

28 1. After the filing of a petition alleging a child to  
29 be delinquent on the basis of an alleged commission of a  
30 public offense and before an adjudicatory hearing on the  
31 merits of the petition is held, the county attorney may file  
32 a motion requesting the court to waive its jurisdiction over  
33 the child so that the child may be prosecuted as an adult  
34 for such violation.

35 2. The court shall, without a jury, hold a waiver hear-

1 ing on all such motions.

2 3. Notice stating the time, place, and purpose of the  
3 waiver hearing shall be issued and served in accordance with  
4 the provisions of section eighteen (18) of this Act. Summons,  
5 subpoenas and other process may be issued and served in  
6 accordance with the provisions of section eighteen (18) of  
7 this Act.

8 4. Prior to the waiver hearing, the juvenile probation  
9 officer or other person or agency designated by the court  
10 shall conduct an investigation for the purpose of collecting  
11 information relevant to the court's decision as to whether  
12 to waive jurisdiction over the child and shall submit a report  
13 concerning such investigation to the court. Prior to the  
14 hearing the court shall provide the child's counsel and the  
15 county attorney with access to the report and to all written  
16 material to be considered by the court.

17 5. At the waiver hearing all relevant and material evi-  
18 dence shall be admitted.

19 6. At the conclusion of the waiver hearing the court may  
20 waive its jurisdiction over the child if:

21 a. The child is fourteen years of age or older; and

22 b. The court determines that there is probable cause to  
23 believe that the child has committed a delinquent act which  
24 would constitute a public offense; and

25 c. The court determines that the state has established  
26 that there are not reasonable prospects for rehabilitating  
27 the child in the event the juvenile court retains jurisdic-  
28 tion over the child and the child is adjudicated delinquent  
29 and that waiver of the court's jurisdiction would be in the  
30 best interest of the child or the community.

31 7. In making the determination required by subsection  
32 six (6), paragraph c, of this section, the factors which the  
33 court shall consider include but are not limited to the follow-  
34 ing:

35 a. The nature of the alleged delinquent act and the

1 circumstances under which it was committed.

2     b. The nature and extent of the child's prior contacts  
3 with juvenile authorities, including past efforts of such  
4 authorities to treat and rehabilitate the child and the child's  
5 response to such efforts.

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

12     8. If at the conclusion of the hearing the court waives  
13 its jurisdiction over the child the court shall make and file  
14 written findings as to its reasons for waiving its jurisdic-  
15 tion.

16     9. If the court waives jurisdiction, statements made by  
17 the child after being taken into custody and prior to ser-  
18 vice of notice under subsection three (3) of this section,  
19 or at a waiver hearing held pursuant to this section, are  
20 not admissible against the child in subsequent criminal  
21 proceedings over the child's objection.

22     10. If the court waives its jurisdiction over the child  
23 so that the child may be prosecuted as an adult, the judge  
24 who made the waiver decision shall not preside at any subse-  
25 quent proceedings in connection with that prosecution over  
26 the objection of the child.

27     Sec. 26. NEW SECTION. CONSENT DECREE.

28     1. At any time after the filing of a petition and prior  
29 to entry of an order of adjudication pursuant to section  
30 twenty-seven (27) of this Act, the court may, on motion of  
31 the county attorney or counsel for the child, suspend the  
32 proceedings, enter a consent decree, and continue the case  
33 under terms and conditions established by the court. These  
34 terms and conditions may include the supervision of the child  
35 by a juvenile probation officer or other agency or person

1 designated by the court.

2 2. A consent decree shall not be entered unless the child  
3 and his or her parent, guardian or custodian is informed of  
4 the consequences of the decree by the court and the court  
5 determines that the child has voluntarily and intelligently  
6 agreed to the terms and conditions of the decree. If the  
7 county attorney objects to the entry of a consent decree,  
8 the court shall, after considering the objection and reasons  
9 therefor, proceed to determine whether it is appropriate to  
10 enter a consent decree.

11 3. A consent decree shall remain in force for six months  
12 unless the child is sooner discharged by the court or by the  
13 juvenile probation officer or other agency or person  
14 supervising the child. Upon application of a juvenile  
15 probation officer or other agency or person supervising the  
16 child made prior to the expiration of the decree, and after  
17 notice and hearing, a consent decree may be extended for an  
18 additional six months by order of the court upon agreement  
19 by the parties.

20 4. When a child has complied with the express terms and  
21 conditions of the consent decree for the required amount of  
22 time or until earlier dismissed as provided in subsection  
23 three (3) of this section, the original petition may not be  
24 reinstated. However, failure to so comply may result in the  
25 child's being thereafter held accountable as if the consent  
26 decree had never been entered.

27 5. A child who is discharged or who completes a period  
28 of continuance without the reinstatement of the original peti-  
29 tion shall not be proceeded against in any court for a delin-  
30 quent act alleged in the petition.

31 Sec. 27. NEW SECTION. ADJUDICATORY HEARING--FINDINGS-  
32 ADJUDICATION.

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

1 provisions of this section.

2 2. The court shall hear and adjudicate all cases involv-  
3 ing a petition alleging a child to be delinquent unless the  
4 child demands that a jury hear and adjudicate the case. A  
5 jury may consist of as few as six persons. If the child  
6 demands a jury trial the jurors shall be drawn and selected  
7 in accordance with the rules applicable to the selection of  
8 jurors in the trial of nonindictable criminal cases.

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

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

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

22 6. The following statements or other evidence shall not  
23 be admitted into evidence at an adjudicatory hearing:

24 a. Statements or other evidence derived directly or indi-  
25 rectly from statements which a child makes without the presence  
26 of counsel to a law enforcement officer while in custody  
27 unless the child and his or her attorney consent to the  
28 admission of such statements or evidence.

29 b. Statements or other evidence derived directly or  
30 indirectly from statements which a child makes to a juvenile  
31 intake officer without the presence of counsel subsequent  
32 to the filing of a complaint and prior to adjudication unless  
33 the child and his or her attorney consent to the admission  
34 of such statements or evidence.

35 c. Statements which the child makes to a juvenile proba-

1 tion officer or other person conducting a predisposition  
2 investigation during such an investigation.

3 7. At the conclusion of an adjudicatory hearing, the court  
4 or jury shall make a finding as to whether the child has  
5 engaged in delinquent conduct. In a case heard without a  
6 jury, the court shall make and file written findings as to  
7 the truth of the specific allegations of the petition and  
8 as to whether the child has engaged in delinquent conduct.

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

12 9. If the court or jury finds that the child did engage  
13 in delinquent conduct, the court may enter an order adjudi-  
14 cating the child to be a delinquent child. The child shall  
15 be presumed to be innocent of the charges against him or her  
16 and no finding that a child has engaged in delinquent conduct  
17 may be made unless the state has proved beyond a reasonable  
18 doubt that the child engaged in such behavior.

19 Sec. 28. NEW SECTION. PREDISPOSITION INVESTIGATION AND  
20 REPORT.

21 1. The court shall not make a disposition of the peti-  
22 tion following the entry of an order of adjudication pursuant  
23 to section twenty-seven (27) of this Act until a predisposition  
24 report has been submitted to and considered by the court.  
25 The court may direct a juvenile probation officer or any other  
26 agency or individual to conduct a predisposition investigation  
27 and to prepare a predisposition report.

28 2. A predisposition investigation shall not be conducted  
29 prior to the adjudication of the child without the consent  
30 of the child and his or her counsel. No predisposition report  
31 shall be submitted to or considered by the court prior to  
32 the completion of the adjudicatory hearing.

33 3. A predisposition report shall not be disclosed except  
34 as provided in this section and except as otherwise provided  
35 in Division eight (VIII) of this Act. Prior to the

1 dispositional hearing, the court shall permit the child's  
2 attorney to inspect any predisposition report to be considered  
3 by the court in making a disposition. The court may in its  
4 discretion order counsel not to disclose parts of the report  
5 to the child, or to the child's parent, guardian, guardian  
6 ad litem, or custodian if the court finds that disclosure  
7 would seriously harm the treatment or rehabilitation of the  
8 child or would violate a promise of confidentiality given  
9 to a source of information.

10 Sec. 29. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

11 1. Following the entry of an order of adjudication under  
12 section twenty-seven (27) of this Act the court may after  
13 a hearing, order a physical or mental examination of the child  
14 if it finds that an examination is necessary to determine  
15 the child's physical or mental condition.

16 2. When possible an examination shall be conducted on  
17 an out-patient basis, but the court may, if it deems necessary,  
18 commit the child to a suitable hospital, facility or institu-  
19 tion for the purpose of examination. Commitment for examina-  
20 tion shall not exceed thirty days and the civil commitment  
21 provisions of chapter two hundred twenty-nine (229) of the  
22 Code shall not apply.

23 Sec. 30. NEW SECTION. DISPOSITIONAL HEARING.

24 1. As soon as practicable following the entry of an order  
25 of adjudication pursuant to section twenty-seven (27) of this  
26 Act, the court shall hold a dispositional hearing in order  
27 to determine what disposition should be made of the petition.

28 2. At that hearing all relevant and material evidence  
29 shall be admitted.

30 3. When the dispositional hearing is concluded the court  
31 shall enter an order to make any one or more of the disposi-  
32 tions authorized under section thirty-two (32) of this Act.

33 Sec. 31. NEW SECTION. DISPOSITION OF MENTALLY ILL CHILD.

34 If the evidence received at an adjudicatory or a dispositional  
35 hearing indicates that the child is mentally ill, the court

1 may direct the juvenile probation officer or the department  
2 to initiate proceedings or to assist the child's parent or  
3 guardian to initiate proceedings under chapter two hundred  
4 twenty-nine (229) of the Code. If the evidence received at  
5 an adjudicatory or a dispositional hearing indicates that  
6 the child is mentally retarded, the court may direct the  
7 juvenile probation officer or the department to initiate  
8 proceedings or to assist the child's parent or guardian to  
9 initiate proceedings under chapter two hundred twenty-two  
10 (222) of the Code. In the event the child is committed as  
11 a mentally ill or mentally retarded child, any order  
12 adjudicating the child a delinquent shall be set aside and  
13 the petition shall be dismissed.

14 Sec. 32. NEW SECTION. DISPOSITION OF DELINQUENT CHILD.

15 1. No dispositional order shall be made unless the court  
16 finds that the child is in need of rehabilitation or that  
17 the protection of the public or the child requires that a  
18 dispositional order be made. If the court does not make such  
19 a finding it shall enter a final judgment without ordering  
20 a disposition. Nothing in this paragraph shall preclude the  
21 court from ordering restitution in appropriate cases.  
22 Restitution may include monetary restitution if the child  
23 has his or her own source of income, and may include an  
24 appropriate work assignment or assignments.

25 2. If the court makes a finding in compliance with subsec-  
26 tion one (1) of this section the court shall enter a disposi-  
27 tional order specifying the following:

- 28 a. The nature of the disposition.
- 29 b. The maximum duration of such disposition.
- 30 c. Where such order affects the residency and the legal  
31 custody of the child, the type of residence or confinement  
32 ordered and the agency, association, institution, facility  
33 or individual in whom custody is vested.

34 3. The court shall enter the least restrictive  
35 dispositional order appropriate in view of the seriousness

1 of the delinquent act, the child's culpability as indicated  
2 by the circumstances of the particular case, the age of the  
3 child and the child's prior record.

4 4. The dispositional orders which the court may enter,  
5 ranging from least restrictive to most restrictive, are as  
6 follows:

7 a. An order permitting the child to remain in his or her  
8 place of residence and in the custody of his or her parent,  
9 guardian or custodian, subject to such conditions and terms  
10 as the court prescribes.

11 b. An order permitting the child to remain in his or her  
12 place of residence and in the custody of his or her parent,  
13 guardian or custodian and placing the child on probation sub-  
14 ject to such conditions and terms as the court prescribes.

15 c. An order transferring the custody of the child, subject  
16 to the continuing jurisdiction of the court for the purposes  
17 of section thirty-four (34) of this Act, to the juvenile  
18 probation office, to the commissioner of the department of  
19 social services or to the director of another agency for  
20 placement in a licensed foster home or to an adult relative  
21 or other adult suitable to the court and placing the child  
22 on probation under such conditions as the court prescribes.

23 d. An order transferring the custody of the child, subject  
24 to the continuing jurisdiction of the court for the purposes  
25 of section thirty-four (34) of this Act, to the commissioner  
26 of the department of social services or to the director of  
27 another agency, facility or institution which is licensed  
28 or otherwise authorized by law to receive and provide care  
29 for the child, provided that:

30 (1) The child is at least ten years of age; and

31 (2) The court finds that the dispositions enumerated in  
32 paragraphs a, b, or c of this subsection would be inadequate  
33 for the needs of the child and that such needs can be met  
34 by placement of the child in a nonsecure facility.

35 e. An order transferring the custody of the child, subject

1 to the continuing jurisdiction of the court for the purposes  
2 of section thirty-four (34) of this Act, to the commissioner  
3 of the department of social services for purposes of placement  
4 in the Iowa training school for boys or the Iowa training  
5 school for girls or other secure facility operated or  
6 supervised by the department, provided that:

- 7 (1) The child is at least twelve years of age; and
- 8 (2) The court finds that there is a substantial likeli-  
9 hood that such placement is necessary to prevent the child  
10 from inflicting physical harm on others or from committing  
11 repeated, serious crimes against property and that the disposi-  
12 tions enumerated in paragraphs a, b, c, or d of this subsec-  
13 tion will not provide adequate protection from such risks.

14 5. If the child is in need of special care or treatment  
15 for his or her physical, emotional or mental health, the court  
16 may provide for such treatment on its own order, and may order  
17 the parent, guardian, or custodian to reimburse the county  
18 for any costs incurred as provided in section seventy-two  
19 (72), subsection two (2) of this Act. The court may order  
20 a commitment to a mental health institute or other appropriate  
21 secure facility for the purposes of treatment of a mental  
22 or emotional condition only after making findings pursuant  
23 to the standards set out for involuntary commitment in chapter  
24 two hundred twenty-nine (229) of the Code.

25 6. When the court enters an order placing a child on  
26 probation pursuant to subsection three (3) of this section,  
27 the court may in cases of change of residency transfer juris-  
28 diction of the child to the juvenile court of the county where  
29 the child's residence is established. The court to which  
30 the jurisdiction of the child is transferred shall have the  
31 same powers with respect to the child as if the petition had  
32 originally been filed in that court.

33 7. When the court enters an order transferring legal and  
34 physical custody of a child to an agency, facility or  
35 institution pursuant to this section, the court shall transmit

1 its order, a copy of its finding and a summary of its  
2 information concerning the child to such agency, association,  
3 facility or institution.

4 Sec. 33. NEW SECTION. DURATION OF DISPOSITIONAL ORDERS.

5 1. Any dispositional order entered by the court pursuant  
6 to section thirty-two (32) of this Act shall remain in force  
7 for an indeterminate period or until the child becomes eighteen  
8 years of age unless otherwise specified by the court or unless  
9 sooner terminated pursuant to the provisions of section thirty-  
10 four (34) of this Act provided that no dispositional order  
11 shall remain in force longer than the maximum possible duration  
12 of the sentence which may be imposed on an adult for the  
13 commission of the act for which the child is alleged to be  
14 delinquent.

15 2. All dispositional orders shall automatically terminate  
16 when the child becomes eighteen years of age.

17 3. Any person supervising but not having custody of the  
18 child pursuant to such an order shall file a written report  
19 with the court at least every nine months concerning the  
20 status and progress of the child.

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

25 The court shall make written acknowledgement to the agency,  
26 facility, institution or person who files a report pursuant  
27 to this section within ten days of its receipt.

28 Sec. 34. NEW SECTION. TERMINATION, MODIFICATION, OR  
29 VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER. At any  
30 time prior to its expiration, a dispositional order may be  
31 terminated, modified, or vacated and another dispositional  
32 order substituted therefor only in accordance with the  
33 following provisions:

34 1. With respect to a dispositional order made pursuant  
35 to section thirty-two (32), subsection four (4), paragraph

1 b of this Act and upon the motion of a child, a child's parent  
2 or guardian, a child's guardian ad litem, a person supervising  
3 the child under a dispositional order, a county attorney,  
4 or upon its own motion, the court may terminate the order  
5 and discharge the child, modify the order, or vacate the order  
6 and substitute another order pursuant to the provisions of  
7 section thirty-two (32) of this Act. Notice shall be afforded  
8 all parties, and a hearing shall be held at the request of  
9 any party.

10 With respect to a dispositional order made pursuant to  
11 section thirty-two (32), subsection four (4), paragraphs c,  
12 d, or e of this Act, the court shall grant a motion of the  
13 person or agency to whom custody has been transferred for  
14 termination of the order and discharge of the child, for  
15 modification of the order by imposition of less restrictive  
16 conditions, or for vacation of the order and substitution  
17 of a less restrictive order. Notice shall be afforded the  
18 parties and unless a party requests a hearing, the right to  
19 a hearing shall be deemed waived.

20 3. With respect to a dispositional order made pursuant  
21 to section thirty-two (32), subsection four (4), paragraphs  
22 c, d, or e of this Act, the court shall, in the absence of  
23 objection by the child, grant a motion of a person or agency  
24 to whom custody has been transferred for modification of the  
25 order by transfer to an equally restrictive placement. If  
26 the child objects to the transfer the court may, after notice  
27 and hearing, either grant or deny the motion for transfer.

28 4. With respect to a dispositional order made pursuant  
29 to section thirty-two (32), subsection four (4), paragraphs  
30 c, d, and e of this Act, the court may, after notice and  
31 hearing, either grant or deny a motion of the child, the  
32 child's parent or guardian, or the child's guardian ad litem,  
33 to terminate the order and discharge the child, to modify  
34 the order either by imposing less restrictive conditions or  
35 by transfer to an equally or less restrictive placement, or

1 to vacate the order and substitute a less restrictive order.  
 2 A motion may be made pursuant to this paragraph no more than  
 3 once every six months.

4 5. With respect to a dispositional order made pursuant  
 5 to section thirty-two (32), subsection four (4), paragraphs  
 6 c, d, and e of this Act, the court may, after notice and a  
 7 hearing at which there is presented clear and convincing  
 8 evidence to support such an action, either grant or deny a  
 9 motion by a county attorney or by a person or agency to whom  
 10 custody has been transferred, to modify an order by imposing  
 11 more restrictive conditions or to vacate the order and  
 12 substitute a more restrictive order.

13 Notice and hearing requirements of this section shall be  
 14 afforded pursuant to sections eighteen (18) and thirty (30)  
 15 of this Act.

16 Sec. 35. NEW SECTION. EFFECT OF ADJUDICATION AND DISPOSI-  
 17 TION.

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

23 2. The adjudication and disposition of a child and evi-  
 24 dence given in a proceeding under this division shall not  
 25 be admissible as evidence against the child in any subsequent  
 26 proceeding in any other court before or after reaching majority  
 27 except in a sentencing proceeding after conviction of a felony.

#### 28 DIVISION III

#### 29 CHILD IN NEED OF ASSISTANCE PROCEEDINGS

#### 30 PART 1

#### 31 GENERAL PROVISIONS

32 Sec. 36. NEW SECTION. JURISDICTION.

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

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

3 Sec. 37. NEW SECTION. VENUE.

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

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

11 a. When it appears that the best interests of the child  
12 or the convenience of the proceedings shall be served by a  
13 transfer, the court may transfer the case to the court of  
14 the county of the child's residence.

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

18 3. The court shall transfer the case by ordering the  
19 transfer and a continuance and by forwarding to the clerk  
20 of the receiving court a certified copy of all papers filed  
21 together with an order of transfer. The judge of the receiving  
22 court may accept the filings of the transferring court or  
23 may direct the filing of a new petition and hear the case  
24 anew.

25 PART 2

26 TEMPORARY REMOVAL OF A CHILD

27 Sec. 38. NEW SECTION. TEMPORARY REMOVAL OF A CHILD PURSU-  
28 ANT TO EX PARTE COURT ORDER.

29 1. The juvenile court may enter an ex parte order directing  
30 a peace officer to remove a child from his or her home before  
31 or after the filing of a petition under this Act provided:

32 a. The parent, guardian, or legal custodian is absent,  
33 or though present, was asked and refused to consent to the  
34 removal of the child and was informed of an intent to apply  
35 for an order under this section; and

1 b. It appears that the child's immediate removal is neces-  
2 sary to avoid imminent danger to the child's life or health;  
3 and

4 c. There is not enough time to file a petition and hold  
5 a hearing under section fifty (50) of this Act.

6 2. The order shall specify the facility to which the child  
7 is to be brought. Except for good cause shown or unless the  
8 child is sooner returned to the place where he or she was  
9 residing, a petition shall be filed under this Act within  
10 three days of the issuance of the order.

11 3. The juvenile court may enter an order authorizing a  
12 physician or hospital to provide emergency medical or surgi-  
13 cal procedures before the filing of a petition under this  
14 Act provided:

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

17 b. There is not enough time to file a petition under this  
18 Act and hold a hearing as provided in section fifty (50) of  
19 this Act.

20 4. Any person who may file a petition under this Act may  
21 apply for, or the court on its own motion may issue, an order  
22 for temporary removal under this section. An appropriate  
23 person designated by the court shall confer with a person  
24 seeking the removal order, shall make every reasonable effort  
25 to inform the parent or other person legally responsible for  
26 the child's care of the application, and shall make such  
27 inquiries as will aid the court in disposing of such applica-  
28 tion.

29 Sec. 39. NEW SECTION. REMOVAL WITHOUT COURT ORDER.

30 1. A peace officer may remove a child from his or her  
31 home or a physician treating a child may keep the child in  
32 his or her custody without a court order as required under  
33 section thirty-eight (38) of this Act and without the consent  
34 of a parent, guardian, or custodian provided that:

35 a. The child is in such circumstance or condition that

1 his or her continued presence in the residence or in the care  
2 or custody of the parent, guardian, or custodian presents  
3 an imminent danger to the child's life or health; and

4 b. There is not enough time to apply for an order under  
5 section thirty-eight (38) of this Act.

6 2. If a person authorized by this section removes or  
7 retains custody of a child, he or she shall:

8 a. Bring the child immediately to a place designated by  
9 the rules of the court for this purpose, unless the person  
10 is a physician treating the child and the child is or will  
11 presently be admitted to a hospital.

12 b. Make every reasonable effort to inform the parent,  
13 guardian, or custodian of the whereabouts of the child.

14 c. Promptly inform the court in writing of the emergency  
15 removal and the circumstances surrounding the removal.

16 3. Any person, agency, or institution acting in good faith  
17 in the removal or keeping of a child pursuant to this section  
18 shall have immunity from any civil or criminal liability  
19 that might otherwise be incurred or imposed as the result  
20 of such removal or keeping.

21 4. When the court is informed that there has been an emer-  
22 gency removal or keeping of a child without a court order,  
23 the court shall direct the department of social services or  
24 the juvenile probation department to make every reasonable  
25 effort to communicate immediately with the child's parent  
26 or other person legally responsible for the child's care.  
27 The court shall also authorize the department of social  
28 services or the juvenile probation department to cause a child  
29 thus removed or kept to be returned if it concludes there  
30 is not an imminent risk to the child's life and health in  
31 so doing. If the child is not returned, the department of  
32 social services or the juvenile probation department shall  
33 forthwith cause a petition to be filed within three days after  
34 the removal.

35 5. When there has been an emergency removal or keeping

1 of a child without a court order, a physical examination of  
2 the child by a licensed medical practitioner shall be performed  
3 as soon as possible.

4 Sec. 40. NEW SECTION. HOMEMAKER SERVICES. A homemaker-  
5 home health aide may be assigned to give care to a child in  
6 the child's place of residence. Whenever possible, such  
7 services shall be provided in preference to removal of the  
8 child from the home. Such care may be provided under this  
9 Act on an emergency basis for up to twenty-four hours without  
10 court order, and may be ordered by the court for a period  
11 of time extending until dismissal or disposition of the case.  
12 Expenses incurred under this section shall be paid for  
13 according to, and reimbursement from the parent, guardian  
14 or custodian may be sought under, the provisions of section  
15 seventy-two (72) of this Act.

16 Sec. 41. NEW SECTION. COMPLAINT.

17 1. Any person having knowledge of the circumstances may  
18 file a complaint with the person or agency designated by the  
19 court to perform intake duties alleging that a child is a  
20 child in need of assistance.

21 2. Upon receipt of a complaint, the court may request  
22 the department of social services, juvenile probation office,  
23 or other authorized agency or individual to conduct a prelim-  
24 inary investigation of the complaint to determine if further  
25 action should be taken.

26 3. A petition alleging the child to be a child in need  
27 of assistance should be filed pursuant to section forty-two  
28 (42) of this Act provided the allegations of the complaint,  
29 if proven, are sufficient to establish the court's jurisdic-  
30 tion and the filing is in the best interests of the child.

31 4. A person or agency shall not maintain any records with  
32 regard to a complaint filed under division three (III) of  
33 this Act which is dismissed without the filing of a petition.

34  
35

PART 3  
JUDICIAL PROCEEDINGS

1     Sec. 42. NEW SECTION.   FILING OF A PETITION--CONTENTS  
2 OF PETITION.

3     1. A formal judicial proceeding to determine whether a  
4 child is a child in need of assistance under this Act shall  
5 be initiated by the filing of a petition alleging a child  
6 to be a child in need of assistance.

7     2. A petition may be filed by the department of social  
8 services, probation officer, or county attorney.

9     3. The department, probation officer, county attorney  
10 or judge may authorize the filing of a petition with the clerk  
11 of the court by any competent person having knowledge of the  
12 circumstances without the payment of a filing fee.

13    4. The petition shall be submitted in the form specified  
14 in section seventeen (17) of this Act.

15    5. The petition shall contain the information specified  
16 in section seventeen (17) of this Act and a clear and concise  
17 summary of the facts which bring the child within the  
18 jurisdiction of the court under this division.

19    Sec. 43. NEW SECTION.   SUMMONS, NOTICE, SUBPOENAS AND  
20 SERVICES. After a petition has been filed the court shall  
21 issue and serve summons, notice, subpoenas and other process  
22 in accordance with the provisions of section eighteen (18)  
23 of this Act.

24    Sec. 44. NEW SECTION.   RIGHT TO AND APPOINTMENT OF COUNSEL.

25    1. Upon the filing of a petition the parent, guardian  
26 or custodian identified in the petition shall have the right  
27 to counsel in connection with all subsequent hearings and  
28 proceedings. If that person desires but is financially unable  
29 to employ counsel, the court shall appoint counsel.

30    2. Upon the filing of a petition the court shall appoint  
31 counsel for the child identified in the petition as a party  
32 to the proceedings, and the court shall appoint a guardian  
33 ad litem. The same person may serve both as child's counsel  
34 and as guardian ad litem.

35    Sec. 45. NEW SECTION.   DUTIES OF COUNTY ATTORNEY. The

1 county attorney shall represent the state in all proceedings  
2 arising from a petition filed under this division and shall  
3 present evidence in support of the petition.

4 Sec. 46. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS.  
5 Any hearings or proceedings under this division subsequent  
6 to the filing of a petition shall not take place without the  
7 presence of the child's parent, guardian or custodian in  
8 accordance with and subject to the provisions of section  
9 nineteen (19) of this Act.

10 Sec. 47. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS.  
11 The court shall exclude and admit persons to hearings and  
12 proceedings under this division in accordance with and subject  
13 to the provisions of section twenty (20) of this Act.

14 Sec. 48. NEW SECTION. OTHER ISSUES ADJUDICATED. When  
15 it appears during the course of any hearing or proceeding  
16 that some action or remedy other than or in addition to those  
17 indicated by the application or pleading appears appropriate,  
18 the court may, provided all necessary parties consent, proceed  
19 to hear and determine the additional or other issues as though  
20 originally properly sought and pleaded.

21 Sec. 49. NEW SECTION. REPORTER REQUIRED. Stenographic  
22 notes or mechanical recordings shall be taken of all court  
23 hearings held pursuant to this division unless waived by the  
24 parties. The child shall not be competent to waive the  
25 reporting requirement, but waiver may be made for the child  
26 by the child's counsel or guardian ad litem. Matters which  
27 must be reported under the provisions of this section shall  
28 be the same as those required in section six hundred twenty-  
29 four point nine (624.9) of the Code.

30 Sec. 50. NEW SECTION. HEARING CONCERNING TEMPORARY  
31 REMOVAL.

32 1. At any time after the petition is filed any person  
33 who may file a petition under section forty-two (42) of this  
34 Act may apply for, or the court on its own motion may order,  
35 a hearing to determine whether the child should be temporarily

1 removed from home. Where the child is in the custody of a  
2 person other than the child's parent, guardian or custodian  
3 as the result of action taken pursuant to section thirty-eight  
4 (38) or thirty-nine (39) of this Act, the court shall hold  
5 a hearing to determine whether the temporary removal should  
6 be continued.

7 2. Upon such hearing, the court may:

8 a. Remove the child from home and place the child in a  
9 shelter care facility or in the custody of a suitable person  
10 or agency pending a final order of disposition if the court  
11 finds that removal is necessary to avoid imminent risk to  
12 the child's life or health.

13 b. Release the child to his or her parent, guardian or  
14 custodian pending a final order of disposition.

15 c. Authorize a physician or hospital to provide medical  
16 or surgical procedures if such procedures are necessary to  
17 safeguard the child's life or health.

18 3. The court shall make and file written findings as to  
19 the grounds for granting or denying an application under this  
20 section.

21 Sec. 51. NEW SECTION. ADJUDICATORY HEARING.

22 1. The court shall hear and adjudicate cases involving  
23 a petition alleging a child to be a child in need of  
24 assistance.

25 2. The state shall have the burden of proving the alle-  
26 gations by clear and convincing evidence.

27 3. Only evidence which is admissible under the rules of  
28 evidence applicable to the trial of civil cases shall be  
29 admitted, except as otherwise provided by this section.

30 4. A report made to the department of social services  
31 pursuant to chapter two hundred thirty-five A (235A) of the  
32 Code shall be admissible in evidence if the person making  
33 the report does not appear as a witness at the hearing, but  
34 such a report shall not alone be sufficient to support a  
35 finding that the child is a child in need of assistance.

1 5. Neither the privilege attaching to confidential com-  
2 munications between a physician and patient nor the privilege  
3 attaching to confidential communications between husband and  
4 wife shall be ground for excluding evidence at an adjudicatory  
5 hearing.

6 6. A report, study, record, or other writing made by the  
7 department of social services, a juvenile probation offi-  
8 cer, a peace officer or a hospital relating to a child in  
9 a proceeding under this division shall be admissible notwith-  
10 standing any objection to hearsay statements contained therein  
11 provided it is relevant and material and provided its probative  
12 value substantially outweighs the danger of unfair prejudice  
13 to the child's parent, guardian, or custodian. The circum-  
14 stances of the making of the report, study, record or other  
15 writing, including the maker's lack of personal knowledge,  
16 may be proved to affect its weight.

17 7. After the hearing is concluded, the court shall make  
18 and file written findings as to the truth of allegations of  
19 the petition and as to whether the child is a child in need  
20 of assistance.

21 8. If the court concludes facts sufficient to sustain  
22 a petition have not been established by clear and convincing  
23 evidence or if the court concludes that its aid is not required  
24 in the circumstances, the court shall dismiss the petition.

25 9. If the court concludes that facts sufficient to sustain  
26 the petition have been established by clear and convincing  
27 evidence and that its aid is required, the court may enter  
28 an order adjudicating the child to be a child in need of  
29 assistance.

30 Sec. 52. NEW SECTION. SOCIAL INVESTIGATION AND REPORT.

31 1. The court shall not make any disposition of the petition  
32 until a social report has been submitted to and considered  
33 by the court. The court may direct the department of social  
34 services or any other agency licensed by the state to conduct  
35 a social investigation and to prepare a social report.

1 2. The social investigation may be conducted and the  
2 social history may be submitted to the court prior to the  
3 adjudication of the child as a child in need of assistance  
4 with the consent of the parties.

5 3. The social report shall not be disclosed except as  
6 provided in this section and except as otherwise provided  
7 in this Act. Prior to the hearing at which the disposition  
8 is determined, the court shall permit counsel for the child  
9 and counsel for the child's parent, guardian or custodian  
10 to inspect any social report to be considered by the court.  
11 The court may in its discretion order such counsel not to  
12 disclose parts of the report to the child, or to the parent,  
13 guardian or custodian if disclosure would seriously harm the  
14 treatment or rehabilitation of the child or would violate  
15 a promise of confidentiality given to a source of information.

16 Sec. 53. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

17 1. A physical or mental examination of the child may be  
18 ordered only after the filing of a petition pursuant to section  
19 forty-two (42) of this Act and after a hearing to determine  
20 whether such an examination is necessary to determine the  
21 child's physical or mental condition.

22 An examination ordered prior to the adjudication may be  
23 performed on an outpatient basis only. An examination ordered  
24 after adjudication shall be conducted on an outpatient basis  
25 whenever possible, but if necessary the court may commit the  
26 child to a suitable hospital, facility or institution for  
27 the purpose of examination for a period not to exceed thirty  
28 days. The civil commitment provisions of chapter two hundred  
29 twenty-nine (229) of the Code shall not apply to such  
30 commitments.

31 The hearing required by this section may be held  
32 simultaneously with the adjudicatory hearing.

33 2. Following an adjudication that a child is a child in  
34 need of assistance, the court may after a hearing order the  
35 physical or mental examination of the parent, guardian or

1 custodian if that person's ability to care for the child is  
2 at issue.

3 Sec. 54. NEW SECTION. DISPOSITIONAL HEARING--FINDINGS.

4 1. Following the entry of an order pursuant to section  
5 fifty-one (51) of this Act, the court shall, as soon as prac-  
6 ticable, hold a dispositional hearing in order to determine  
7 what disposition should be made of the petition.

8 2. All relevant and material evidence shall be admitted.

9 3. When the dispositional hearing is concluded the court  
10 shall make the least restrictive disposition appropriate  
11 considering all the circumstances of the case. The  
12 dispositions which may be entered under this division are  
13 listed in sections fifty-five (55) through fifty-seven (57)  
14 of this Act in order from least to most restrictive.

15 4. The court shall make and file written findings as to  
16 its reasons for the disposition.

17 Sec. 55. NEW SECTION. SUSPENDED JUDGMENT. After the  
18 dispositional hearing the court may enter an order suspending  
19 judgment and continuing the proceedings subject to terms and  
20 conditions imposed to assure the proper care and protection  
21 of the child. The maximum duration of any term or condition  
22 of a suspended judgment shall be twelve months unless the  
23 court finds at a hearing at the conclusion of that period  
24 that exceptional circumstances require an extension of the  
25 term or condition for an additional six months.

26 Sec. 56. NEW SECTION. RETENTION OF CUSTODY BY PARENT.

27 1. After the dispositional hearing, the court may enter  
28 an order permitting the child's parent, guardian or custodian  
29 at the time of the filing of the petition to retain custody  
30 of the child subject to terms and conditions which the court  
31 prescribes to assure the proper care and protection of the  
32 child. Such terms and conditions may include supervision  
33 of the child and the parent, guardian or custodian by the  
34 department of social services, juvenile probation office or  
35 other appropriate agency which the court designates. Such

1 terms and conditions may also include the provision or  
2 acceptance by the parent, guardian or custodian of special  
3 treatment or care which the child needs for his or her physical  
4 or mental health. If the parent, guardian or custodian fails  
5 to provide the treatment or care, the court may order the  
6 department of social services or some other appropriate state  
7 agency to provide such care or treatment.

8 2. The duration of any period of supervision or other  
9 terms or conditions shall be for an initial period of no more  
10 than eighteen months and the court, at the expiration of that  
11 period, upon a hearing and for good cause shown, may make  
12 successive extensions of such supervision or other terms or  
13 conditions of up to twelve months each.

14 Sec. 57. NEW SECTION. TRANSFER OF LEGAL CUSTODY OF JUVE-  
15 NILE AND PLACEMENT.

16 1. After a dispositional hearing the court may enter an  
17 order transferring the legal custody of the child to one of  
18 the following for purposes of placement:

- 19 a. A relative or other suitable person.
- 20 b. A child placing agency or other suitable private agency,  
21 facility or institution which is licensed or otherwise  
22 authorized by law to receive and provide care for the child.
- 23 c. The department of social services.

24 2. Whenever possible the court should permit the child  
25 to remain at home with his or her parent, guardian or custo-  
26 dian. Custody of the child should not be transferred unless  
27 the court finds there is clear and convincing evidence that:

- 28 a. The child cannot be protected from physical abuse  
29 without transfer of custody; or
- 30 b. The child cannot be protected from some harm which  
31 would justify the adjudication of the child as a child in  
32 need of assistance and an adequate placement is available.

33 3. The child shall not be placed in the Iowa training  
34 school for boys or the Iowa training school for girls.

35 4. If the court orders the transfer of the custody of

1 the child to the department of social services or other agency  
2 for placement, the department or agency should submit to the  
3 court a specific plan for placement of the child and should  
4 make every effort to return the child to his or her home as  
5 quickly as possible. If the court orders the transfer of  
6 custody to a relative or other suitable person, the court  
7 may direct the department or other agency to provide services  
8 to the child's parent, guardian or custodian in order to  
9 enable them to resume custody of the child.

10 5. The duration of any placement made after an order pur-  
11 suant to this section shall be for an initial period of six  
12 months. At the expiration of that period, the court shall  
13 hold a hearing and review the placement in order to determine  
14 whether the child should be returned home, an extension of  
15 the placement should be made, or a termination of the parent-  
16 child relationship proceeding should be instituted. The  
17 placement should be terminated and the child returned to his  
18 or her home if the court finds by a preponderance of the  
19 evidence that the child will not suffer harm in the manner  
20 specified in section two (2), subsection six (6), of this  
21 Act. If the placement is extended, the court should determine  
22 whether additional services are necessary to facilitate the  
23 return of the child to his or her home, and if the court  
24 determines such services are needed, the court shall order  
25 the provision of such services.

26 Sec. 58. NEW SECTION. TERMINATION, MODIFICATION, VACA-  
27 TION AND SUBSTITUTION OF DISPOSITIONAL ORDER.

28 1. At any time prior to expiration of a dispositional  
29 order and upon the motion of an authorized party or upon its  
30 own motion as provided in this section, the court may terminate  
31 the order and discharge the child, modify the order, or vacate  
32 the order and make a new order.

33 2. The following persons shall be authorized to file a  
34 motion to terminate, modify or vacate and substitute a  
35 dispositional order:

- 1 a. The child.
  - 2 b. The child's parent, guardian or custodian, except that
  - 3 such motion may be filed by that person not more often than
  - 4 once every six months.
  - 5 c. The child's guardian ad litem.
  - 6 d. A person supervising the child pursuant to a dispo-
  - 7 sitional order.
  - 8 e. An agency, facility, institution or person to whom
  - 9 legal custody has been transferred pursuant to a dispositional
  - 10 order.
  - 11 f. The county attorney.
- 12 3. A hearing shall be held on a motion to terminate or
- 13 modify a dispositional order except that a hearing on a motion
- 14 to terminate an order may be waived upon agreement by all
- 15 parties. Reasonable notice of the hearing shall be given
- 16 in accordance with the provisions of section eighteen (18)
- 17 of this Act. The hearing shall be conducted in accordance
- 18 with the provisions of section thirty (30) of this Act.
- 19 4. The court may terminate an order and release the child
- 20 if the court finds that the purposes of the order have been
- 21 accomplished and the child is no longer in need of supervision,
- 22 care or treatment.
- 23 5. The court may modify or vacate an order for good cause
- 24 shown provided that where the request to modify or vacate
- 25 is based on the child's alleged failure to comply with the
- 26 conditions or terms of the order, the court may modify or
- 27 vacate the order only if it finds that there is clear and
- 28 convincing evidence that the child violated a material and
- 29 reasonable condition or term of the order.
- 30 6. If the court vacates the order it may make any other
- 31 order in accordance with and subject to the provisions of
- 32 sections fifty-five (55) through fifty-seven (57) of this
- 33 Act.

34 DIVISION IV

35 TERMINATION OF PARENT-CHILD

## 1 RELATIONSHIP PROCEEDING

2 Sec. 59. NEW SECTION. JURISDICTION. The juvenile court  
3 shall have exclusive jurisdiction over proceedings under this  
4 Act to terminate a parent-child relationship and all parental  
5 rights with respect to a child. No such termination shall  
6 be ordered except under the provisions of this Act if the  
7 court has made an order concerning the child pursuant to the  
8 provisions of Division three (III) of this Act and the order  
9 is in force at the time a petition for termination is filed.

10 Sec. 60. NEW SECTION. VENUE.

11 1. Venue for termination proceedings under this Act shall  
12 be in the judicial district where the child is found or the  
13 judicial district where the child resides except as otherwise  
14 provided in subsection two (2) of this section.

15 2. If a court has made an order concerning the child pur-  
16 suant to the provisions of this Act and the order is still  
17 in force at the time the termination petition is filed, such  
18 court shall hear and adjudicate the case unless the court  
19 transfer the case.

20 3. The judge may transfer the case to the juvenile court  
21 of any county having venue in accordance with the provisions  
22 of section thirty-seven (37) of this Act.

23 Sec. 61. NEW SECTION. PETITION.

24 1. A child's guardian or custodian, the department of  
25 social services, a juvenile probation officer or the county  
26 attorney may file a petition for termination of the parent-  
27 child relationship and parental rights with respect to a child  
28 as provided in section forty-one (41) of this Act.

29 2. The department probation officer, county attorney or  
30 judge may authorize any competent person having knowledge  
31 of the circumstances to file a termination petition with the  
32 clerk of the court without the payment of a filing fee as  
33 provided in section forty-one (41) of this Act.

34 3. A petition for termination of parental rights shall  
35 include the following:

- 1 a. The legal name, age, and domicile, if any, of the
- 2 child.
- 3 b. The names, residences, and domicile of any:
- 4 (1) Living parents of the child.
- 5 (2) Guardian of the child.
- 6 (3) Custodian of the child.
- 7 (4) Guardian ad litem of the child.
- 8 (5) Petitioner.
- 9 (6) Person standing in the place of the parents of the
- 10 child.
- 11 c. A plain statement of those facts and grounds specified
- 12 in section ten (10) of this Act which indicate that the parent-
- 13 child relationship should be terminated.
- 14 d. A plain statement explaining why the petitioner does
- 15 not know any of the information required under paragraphs
- 16 a and b of this subsection.
- 17 e. The signature and verification of the petitioner.

18 Sec. 62. NEW SECTION. NOTICE-SERVICE.

- 19 1. Persons listed in section sixty-one (61), subsection
- 20 three (3), of this Act shall be necessary parties to a
- 21 termination of parent-child relationship proceeding and are
- 22 entitled to receive notice and an opportunity to be heard
- 23 with the following exception: Any such person whose name
- 24 or address the court determines is unknown and cannot be
- 25 ascertained by reasonably diligent search shall not be
- 26 considered a necessary party.
- 27 2. Prior to the service of notice on the necessary parties,
- 28 the juvenile court shall appoint a guardian ad litem for a
- 29 minor child if the child does not have a guardian or guardian
- 30 ad litem or if the interests of the guardian or guardian ad
- 31 litem conflict with the interests of the child. Such guardian
- 32 ad litem shall be a necessary party under subsection one (1)
- 33 of this section.
- 34 3. Notice under this section shall be served personally
- 35 or shall be sent by restricted certified mail, whichever is

1 determined by the court to be the most effective means of  
2 notification. Such notice shall be made according to the  
3 rules of civil procedure relating to an original notice where  
4 not inconsistent with the provisions of this section. Notice  
5 by personal delivery shall be served not less than seven days  
6 prior to the hearing on termination of parental rights.  
7 Notice by restricted certified mail shall be sent not less  
8 than fourteen days prior to the hearing on termination of  
9 parental rights. A notice by restricted certified mail which  
10 is refused by the necessary party given notice shall be  
11 sufficient notice to the party under this section.

12 Sec. 63. NEW SECTION. GROUNDS FOR TERMINATION. Except  
13 as provided in subsection six (6) of this section, the court  
14 may order the termination of both the parental rights with  
15 respect to a child and the relationship between the parents  
16 and the child on any of the following grounds:

17 1. The parents voluntarily and intelligently consent to  
18 the termination of parental rights and the parent-child  
19 relationship and for good cause desire the termination.

20 2. The court finds that there is clear and convincing  
21 evidence that the child has been abandoned.

22 3. The court finds that:

23 a. One or both parents has physically abused the child;  
24 and

25 b. The court has previously adjudicated the child to be  
26 a child in need of assistance after finding the child to have  
27 been physically abused as the result of the acts or omissions  
28 of the parent or parents, or the court has previously adjudi-  
29 cated a child who is a member of the same family to be a child  
30 in need of assistance after such a finding; and

31 c. There is clear and convincing evidence that the parents  
32 had received or were offered services to correct the situation  
33 which led to the abuse.

34 4. The court finds that:

35 a. The child has been adjudicated a child in need of

1 assistance pursuant to section fifty-one (51) of this Act;  
2 and

3 b. The custody of the child has been transferred from  
4 his or her parents for placement pursuant to section fifty-  
5 seven (57) of this Act and such placement has lasted for a  
6 period of at least six months, but less than twelve months;  
7 and

8 c. There is clear and convincing evidence that the child  
9 cannot be returned to the custody of his or her parents as  
10 provided in section fifty-seven (57) of this Act; and

11 d. There is clear and convincing evidence that the parents  
12 have not maintained contact with the child during the previous  
13 six months and have made no reasonable efforts to resume care  
14 of the child despite being given the opportunity to do so.

15 5. The court finds that:

16 a. The child has been adjudicated a child in need of  
17 assistance pursuant to section fifty-one (51) of this Act;  
18 and

19 b. The custody of the child has been transferred from  
20 his or her parents for placement pursuant to section fifty-  
21 seven (57) of this Act for at least twelve months; and

22 c. There is clear and convincing evidence that the child  
23 cannot be returned to the custody of his or her parents as  
24 provided in section fifty-seven (57) of this Act.

25 6. Notwithstanding the provisions of subsections two (2)  
26 through five (5) of this section the court shall not terminate  
27 the relationship between parents and child if the court finds:

28 a. A relative has legal custody of the child; or

29 b. The child is over ten years of age and objects to such  
30 termination; or

31 c. There is clear and convincing evidence that such ter-  
32 mination would be detrimental to the child at the time due  
33 to the closeness of the parent-child relationship; or

34 d. It is necessary to place the child in a hospital,  
35 facility or institution for care and treatment and the con-

1 tinuation of the parent-child relationship is not preventing  
2 a permanent family placement for the child.

3 Sec. 64. NEW SECTION. TERMINATION--FINDINGS--DISPOSITION.

4 1. After the hearing is concluded the court shall make  
5 and file written findings.

6 2. If the court concludes that facts sufficient to  
7 terminate parental rights have not been established by clear  
8 and convincing evidence, the court shall dismiss the petition.

9 3. If the court concludes that facts sufficient to sustain  
10 the petition have been established by clear and convincing  
11 evidence, the court may order parental rights terminated.  
12 If the court terminates the parental rights of both parents,  
13 or of a sole parent, or of the mother if the child is born  
14 out of wedlock, the court shall transfer the guardianship  
15 and custody of the child to one of the following:

16 a. The department of social services.

17 b. A child placing agency or other suitable private agency,  
18 facility or institution which is licensed or otherwise  
19 authorized by law to receive and provide care for the child.

20 c. A relative or other suitable person.

21 4. If after a hearing the court does not order the ter-  
22 mination of parental rights but finds that there is clear  
23 and convincing evidence that the child has been abandoned  
24 by his or her parents or has been sexually abused as the  
25 result of the acts or omissions of one or both of his or her  
26 parents the court may adjudicate the child to be a child in  
27 need of assistance and may enter an order in accordance with  
28 the provisions of sections fifty-five (55), fifty-six (56)  
29 and fifty-seven (57) of this Act.

30 Sec. 65. NEW SECTION. REMOVAL OF GUARDIAN.

31 1. Upon application of an interested party or upon the  
32 court's own motion, the court having jurisdiction of the child  
33 may, after notice to the parties and a hearing, remove a court  
34 appointed guardian and appoint a guardian in accordance with  
35 the provisions of section sixty-four (64), subsection three

1 (3), of this Act.

2 2. Any minor fourteen years of age or older who has not  
3 been adopted but who is placed in a satisfactory foster home  
4 may with the consent of the foster parents join with the  
5 guardian appointed by the court in an application to the court  
6 to remove the existing guardian and appoint the foster parents  
7 as guardians of the child.

8 3. The authority of a guardian appointed by the court  
9 terminates when the child reaches the age of majority or is  
10 adopted.

11 DIVISION V

12 FAMILY IN NEED OF ASSISTANCE PROCEEDINGS

13 Sec. 66. NEW SECTION. JURISDICTION. The juvenile court  
14 shall have exclusive jurisdiction over family in need of  
15 assistance proceedings.

16 Sec. 67. NEW SECTION. VENUE. Venue for family in need  
17 of assistance proceedings shall be determined in accordance  
18 with section thirty-four (34) of this Act.

19 Sec. 68. NEW SECTION. PETITION.

20 1. A family in need of assistance proceeding shall be  
21 initiated by the filing of a petition alleging that a child  
22 and his or her parent, guardian or custodian are a family  
23 in need of assistance.

24 2. Such a petition may be filed by the child's parent,  
25 guardian or custodian or by the child. The judge, county  
26 attorney, or probation officer may authorize such parent,  
27 guardian, custodian, or child to file a petition with the  
28 clerk of the court without the payment of a filing fee.

29 3. The petition and subsequent court documents shall be  
30 entitled "In re the family of ....."

31 4. The petition shall state the names and residences of  
32 the child, and his or her living parents, guardian, custodian  
33 and guardian ad litem, if any and the age of the child.

34 5. The petition shall allege that there has been a break-  
35 down in the familial relationship.

1     Sec. 69. NEW SECTION. APPOINTMENT OF COUNSEL AND GUARDIAN  
2 AD LITEM. The court shall appoint counsel or a guardian ad  
3 litem to represent the interests of the child at the hearing  
4 to determine whether the family is a family in need of assis-  
5 tance unless the child already has such counsel or guardian.

6     Sec. 70. NEW SECTION. HEARING--ADJUDICATION--DISPOSITION.

7     1. Upon the filing of a petition, the court shall fix  
8 a time for a hearing and give notice thereof to the child  
9 and the child's parent, guardian or custodian.

10    2. The court shall exclude the general public from such  
11 hearing except the court in its discretion may admit persons  
12 having a legitimate interest in the case or the work of the  
13 court.

14    3. The hearing shall be informal and all relevant and  
15 material evidence shall be admitted.

16    4. The court may adjudicate the family to be a family  
17 in need of assistance and enter an appropriate dispositional  
18 order if the court finds:

19    a. There has been a breakdown in the relationship between  
20 the child and his or her parent, guardian or custodian; and

21    b. The child or his or her parent, guardian or custodian  
22 has unsuccessfully sought services from public or private  
23 agencies to maintain and improve the familial relationship;  
24 and

25    c. The court has at its disposal services for this pur-  
26 pose which can be made available to the family.

27    5. If the court makes such a finding the court may order  
28 the parties to accept counseling or other services designed  
29 to maintain and improve the familial relationship. Such an  
30 order shall remain in force for a period not to exceed one  
31 year unless the court otherwise specifies or sooner terminates  
32 the order.

33    6. The court may not order the child placed on probation,  
34 in a foster home or in a nonsecure facility unless the child  
35 requests and agrees to such supervision or placement. In

1 no event shall the court order the child placed in the Iowa  
2 training school for boys or the Iowa training school for girls  
3 or other secure facility.

4 DIVISION VI

5 APPEAL

6 Sec. 71. NEW SECTION. APPEAL.

7 1. Any interested party aggrieved by any order or decree  
8 of the juvenile court may appeal from the court for review  
9 of questions of law or fact.

10 2. The procedure for such appeals shall be governed by  
11 the same provisions applicable to appeals from the district  
12 court provided that when such order or decree affects the  
13 custody of a child the appeal shall be heard at the earliest  
14 practicable time.

15 3. The pendency of an appeal or application therefor shall  
16 not suspend the order of the juvenile court regarding a child  
17 and shall not discharge the child from the custody of the  
18 court or the agency, association, facility, institution or  
19 person to whom the court has transferred legal custody unless  
20 the appellate court otherwise orders on application of an  
21 appellant.

22 4. If the appellate court does not dismiss the proceedings  
23 and discharge the child, the appellate court shall affirm  
24 or modify the order of the juvenile court and remand the child  
25 to the jurisdiction of the juvenile court for disposition  
26 not inconsistent with the appellate court's finding on the  
27 appeal.

28 DIVISION VII

29 EXPENSES AND COSTS

30 Sec. 72. NEW SECTION. EXPENSES CHARGED TO COUNTY.

31 1. The following expenses upon certification of the judge  
32 or upon such other authorization as provided by law are a  
33 charge upon the county in which the proceedings are held to  
34 the extent provided in subsection four (4) of this section.

35 a. The fees and mileage of witnesses and the expenses

1 and mileage of officers serving notices and subpoenas.

2 b. The expenses of transporting a child to a place desig-  
3 nated by a child placing agency for the care of a child if  
4 the court transfers legal custody to a child placing agency.

5 c. The expense of transporting a child to or from a place  
6 designated by the court.

7 d. Reasonable compensation for an attorney appointed by  
8 the court to serve as counsel or guardian ad litem.

9 e. Reasonable compensation for an advocate appointed by  
10 the county board of supervisors pursuant to section six (6)  
11 of this Act.

12 f. The expense of treatment or care ordered by the court  
13 under an authority of subsection two (2) of this section.

14 2. Whenever legal custody of a minor is transferred by  
15 the court or whenever the minor is placed by the court with  
16 someone other than the parents or whenever homemaker-home  
17 health aide service is provided under section forty (40) of  
18 this Act, or whenever a minor is given physical or mental  
19 examinations or treatment under order of the court and no  
20 provision is otherwise made by law for payment for the care,  
21 examination, or treatment of the minor, the costs shall be  
22 charged upon the funds of the county in which the proceed-  
23 ings are held upon certification of the judge to the board  
24 of supervisors. Except where the parent-child relationship  
25 is terminated, the court may inquire into the ability of the  
26 parents to support the minor and after giving the parents  
27 a reasonable opportunity to be heard may order the parents  
28 to pay in the manner and to whom the court may direct, such  
29 sums as will cover in whole or in part the cost of care,  
30 examination, or treatment of the minor. If the parents fail  
31 to pay the sum without good reason, the parents may be  
32 proceeded against for contempt or the court may inform the  
33 county attorney who shall proceed against the parents to  
34 collect the unpaid sums or both. Any such sums ordered by  
35 the court shall be a judgment against each of the parents

1 and a lien as provided in section six hundred twenty-four  
2 point twenty-three (624.23) of the Code. If all or any part  
3 of the sums that the parents are ordered to pay is subsequently  
4 paid by the county, the judgment and lien shall thereafter  
5 be against each of the parents in favor of the county to the  
6 extent of such payments.

7 3. The county charged with the cost and expenses under  
8 subsection one (1) or two (2) of this section may recover  
9 the costs and expenses from the county where the child has  
10 legal settlement by filing verified claims which shall be  
11 payable as are other claims against the county. A detailed  
12 statement of the facts upon which the claim is based shall  
13 accompany the claim. Any dispute involving the legal  
14 settlement of a child for which the court has ordered payment  
15 under authority of this section shall be settled in accordance  
16 with sections two hundred fifty-two point twenty-two (252.22)  
17 and two hundred fifty-two point twenty-three (252.23) of the  
18 Code.

19 4. Costs incurred under this section shall be paid as  
20 follows:

21 a. The costs incurred under the provisions of section  
22 two hundred thirty-two point fifty-two (232.52) of the Code  
23 by each county for the fiscal years beginning July 1, 1974,  
24 1975, and 1976 shall be averaged. The average cost for each  
25 county shall be that county's base cost for the first fiscal  
26 year after the effective date of this Act.

27 b. Each county shall be required to pay for the first  
28 fiscal year after the effective date of this Act an amount  
29 equal to its base cost plus an amount equal to the percentage  
30 rate of change in the consumer price index as tabulated by  
31 the bureau of labor statistics for the current fiscal year  
32 times the base cost.

33 c. A county's base cost for a fiscal year plus the  
34 percentage rate of change amount as computed in paragraph  
35 b of this subsection shall become that county's base cost

1 for the succeeding fiscal year. The amount to be paid in  
2 the succeeding year by the county shall be computed as provided  
3 in paragraph b of this subsection.

4 d. Costs incurred under provisions of this section which  
5 are not paid by the county under the provisions of paragraphs  
6 a, b and c of this subsection shall be paid by the state.

7 Sec. 73. NEW SECTION. MAINTENANCE AND COST OF JUVENILE  
8 HOMES.

9 1. County boards of supervisors may either singly or in  
10 conjunction with one or more other counties provide and main-  
11 tain juvenile detention and juvenile shelter care homes.

12 2. For the purpose of providing and maintaining such a  
13 county or multi-county home, the board of supervisors of any  
14 county may issue bonds and authorize the expenditure of such  
15 amounts as are consistent with the provisions of chapter three  
16 hundred forty-five (345) of the Code. The board of super-  
17 visors of any county is authorized to levy a tax not to exceed  
18 thirteen and one-half cents per thousand dollars of assessed  
19 value for the purpose of maintaining such a home. In counties  
20 of over one hundred fifty thousand population, the board of  
21 supervisors is authorized to levy a tax not to exceed twenty  
22 and one-fourth cents per thousand dollars of assessed value  
23 for the maintenance of such a home. Expenses for providing  
24 and maintaining such a home shall be paid by the county or  
25 counties participating in a manner to be determined by board  
26 or boards of supervisors of participating counties.

27 3. Upon request of the board of supervisors, the area  
28 education agency shall provide suitable curriculum, teaching  
29 staff, books, supplies, and other necessary materials and  
30 equipment for the instruction of children of school age who  
31 are detained in such a home.

32 4. Approved county or multi-county juvenile homes may  
33 be entitled to receive financial aid from the state in the  
34 amount and in such manner as determined by the commissioner.  
35 Aid paid by the state shall not exceed fifty percent of the

1 total cost of the establishment, improvements, operation,  
2 and maintenance of such a home.

3 5. The commissioner shall adopt minimal rules and stan-  
4 dards for the establishment, maintenance, and operation of  
5 such homes as shall be necessary to effect the purposes of  
6 this Act. The commissioner shall, upon request, give guidance  
7 and consultation in the establishment and administration of  
8 such homes and programs for such homes.

9 6. The commissioner shall approve annually all such homes  
10 established and maintained under the provisions of this Act.  
11 No such home shall be approved unless it complies with minimal  
12 rules and standards adopted by the commissioner.

13 DIVISION VIII  
14 RECORDS

15 Sec. 74. NEW SECTION. CONFIDENTIALITY OF JUVENILE COURT  
16 RECORDS.

17 1. Juvenile court records shall be confidential. They  
18 shall not be inspected and their contents shall not be dis-  
19 closed except as provided in this section.

20 2. Official juvenile court records may be inspected and  
21 their contents may be disclosed to the following without court  
22 order:

- 23 a. The judge and professional court staff, including
- 24 juvenile probation officers.
- 25 b. The child and his or her counsel.
- 26 c. The child's parent, guardian or custodian, and guardian
- 27 ad litem.
- 28 d. The county attorney and his or her assistants.
- 29 e. An agency, association, facility or institution which
- 30 has custody of the child, or is legally responsible for the
- 31 care, treatment or supervision of the child.
- 32 f. A court, court professional staff, and adult proba-
- 33 tion officers in connection with the preparation of a presen-
- 34 tence report concerning a person who prior thereto had been
- 35 the subject of a juvenile court proceeding.

1 g. An appellate court in connection with an appeal pur-  
2 suant to section seventy-one (71) of this Act.

3 3. Pursuant to court order official records may be  
4 inspected by and their contents may be disclosed to:

5 a. A person conducting bona fide research for research  
6 purposes under whatever conditions the court may deem proper,  
7 provided that no personal identifying data shall be disclosed  
8 to such a person.

9 b. Persons who have a direct and legitimate interest in  
10 a proceeding or in the work of the court.

11 4. Inspection of social records and disclosure of their  
12 contents shall not be permitted except pursuant to court order  
13 or unless otherwise provided in this Act.

14 Sec. 75. NEW SECTION. FINGERPRINTS--PHOTOGRAPHS.

15 1. Except as provided in this section, a child shall not  
16 be fingerprinted by a criminal justice agency after he or  
17 she is taken into custody and fingerprint files of children  
18 shall not be inspected unless the juvenile court waives its  
19 jurisdiction over the child so that the child may be prosecuted  
20 as an adult for the commission of a public offense.

21 2. Fingerprints of a child who has been taken into custody  
22 and who is fourteen years of age or older may be taken and  
23 filed by a criminal justice agency investigating the commission  
24 of a public offense constituting a felony.

25 3. If a peace officer has reasonable grounds to believe  
26 that latent fingerprints found during the investigation of  
27 the commission of a public offense are those of a particular  
28 child, fingerprints of the child may be taken for immediate  
29 comparison with the latent fingerprints regardless of the  
30 age of the child or the nature of the offense. If the  
31 comparison is negative the fingerprint card and other copies  
32 of the fingerprints taken shall be immediately destroyed.  
33 If the comparison is positive and the child is referred to  
34 the court, the fingerprint card and other copies of the  
35 fingerprints taken shall be delivered to the court for

1 disposition. If the child is not referred to the court, the  
2 fingerprint card and copies of the fingerprints shall be  
3 immediately destroyed.

4 4. Fingerprint files of children shall be kept separate  
5 from those of adults. Copies of fingerprints of a child shall  
6 not be placed in any data storage system established and main-  
7 tained by the department of public safety pursuant to chapter  
8 seven hundred forty-nine B (749B) of the Code, or in any  
9 federal depository for fingerprints.

10 5. Fingerprint files of children may be inspected by peace  
11 officers when necessary for the discharge of their official  
12 duties. The juvenile court may authorize other inspections  
13 of such files in individual cases upon a showing that  
14 inspection is necessary in the public interest.

15 6. Fingerprints of a child shall be removed from the file  
16 and destroyed if:

17 a. A petition alleging the child to be delinquent is not  
18 filed; or

19 b. After a petition is filed, the petition is dismissed  
20 or the child is found by the court not to be delinquent; or

21 c. Upon petition by the child when he or she reaches  
22 twenty-one years of age and he or she has not been adjudicated  
23 a delinquent nor convicted of committing an aggravated  
24 misdemeanor or a felony after reaching sixteen years of age.

25 7. A child shall not be photographed by a criminal jus-  
26 tice agency after he or she is taken into custody without  
27 the consent of the court unless the court waives jurisdiction  
28 over the child so that he or she may be prosecuted as an adult  
29 for the commission of a public offense.

30 Sec. 76. NEW SECTION. LAW ENFORCEMENT RECORDS.

31 1. The taking of a child into custody under the provisions  
32 of section seven (7) of this Act shall not be considered an  
33 arrest.

34 2. Records and files of a criminal justice agency con-  
35 cerning a child other than fingerprint and photograph records

1 and files shall not be open to inspection and their contents  
2 shall not be disclosed except as provided in this section  
3 and section seventy-seven (77) of this Act unless the juvenile  
4 court waives its jurisdiction over the child so that the child  
5 may be prosecuted as an adult for a public offense.

6 3. Such records may be inspected and their contents may  
7 be disclosed without a court order to the following:

8 a. Peace officers of this state and other jurisdictions  
9 when necessary for the discharge of their official duties.

10 b. The judge and professional staff, including juvenile  
11 probation officers, of a juvenile court or of a juvenile or  
12 family court in another jurisdiction having the child currently  
13 before it in any proceeding.

14 c. The child, his or her counsel, parent, guardian,  
15 custodian and guardian ad litem.

16 d. The designated representative of any agency, asso-  
17 ciation, facility or institution which has custody of the  
18 child, or is responsible for the care, treatment or super-  
19 vision of the child pursuant to a court order.

20 e. A court in which the child has been convicted of a  
21 public offense in connection with a presentence report or  
22 dispositional proceedings.

23 4. Pursuant to court order such records may be inspected  
24 by and their contents may be disclosed to the following:

25 a. A person conducting bona fide research for research  
26 purposes under such conditions as the court may deem proper,  
27 provided that no personal identifying data shall be disclosed  
28 to such a person.

29 b. Persons who have a direct interest in a proceeding or  
30 in the work of the court.

31 Sec. 77. NEW SECTION. SEALING OF RECORDS.

32 1. Upon application of a person who was taken into custody  
33 for a delinquent act or was the subject of a complaint alleging  
34 delinquency or was the subject of a delinquency petition,  
35 or upon the court's own motion, the court, after hearing,

1 shall order the records in the case including those specified  
2 in sections seventy-three (73) and seventy-five (75) of this  
3 Act sealed if the court finds that:

4 a. Two years have elapsed since the final discharge of  
5 such person or since the last official action in his or her  
6 case if there was no adjudication and disposition; and

7 b. Such person has not been subsequently convicted of  
8 a felony or an aggravated or serious misdemeanor or adjudi-  
9 cated a delinquent child for an act which if committed by  
10 an adult would be a felony, an aggravated misdemeanor or a  
11 serious misdemeanor and no proceeding is pending seeking such  
12 conviction or adjudication.

13 2. Reasonable notice of the hearing shall be given to  
14 the person who is the subject of the records named in the  
15 motion, the county attorney, and the agencies having custody  
16 of the records named in the application or motion.

17 3. Notice and copies of a sealing order shall be sent  
18 to each agency or person having custody of the records named  
19 therein.

20 4. On entry of a sealing order:

21 a. All agencies and persons having custody of records  
22 which are named therein, shall send such records to the court  
23 issuing the order.

24 b. All index references to sealed records shall be deleted.

25 5. The sealed records shall no longer be deemed to exist  
26 as a matter of law, and the juvenile court and any other  
27 agency or person who received notice and a copy of the sealing  
28 order may properly reply to an inquiry that no such records  
29 exist.

30 6. Inspection of sealed records and disclosure of their  
31 contents thereafter may be permitted only pursuant to an order  
32 of the court upon application of the person who is the subject  
33 of such records except that the court in its discretion may  
34 permit reports to be inspected by or their contents to be  
35 disclosed for research purposes to a person conducting bona

1 fide research under whatever conditions the court deems proper.

2 Sec. 78. NEW SECTION. CRIMINAL PENALTIES. Any person  
3 who knowingly discloses, receives, or makes use or permits  
4 the use of information derived directly or indirectly from  
5 the records concerning a child referred to in sections seventy-  
6 three (73), seventy-four (74), seventy-five (75), and seventy-  
7 six (76) of this Act except as provided by those sections  
8 shall be guilty of a serious misdemeanor.

9 Sec. 79. Section one hundred six (106), subsection thirteen  
10 (13), unnumbered paragraph two (2), Code 1977, is amended  
11 to read as follows:

12 ~~Chapter-232~~ This Act shall have no application in the  
13 prosecution of offenses committed in violation of this chapter  
14 or rules and regulations which are adopted under the authority  
15 of this chapter which are punishable by a fine of not more  
16 than one hundred dollars or by imprisonment for not more than  
17 thirty days.

18 Sec. 80. Section two hundred thirty-one point three  
19 (231.3), unnumbered paragraph two (2), Code 1977, is amended  
20 to read as follows:

21 The judge of the juvenile court may appoint a referee in  
22 juvenile court proceedings. The referee shall be qualified  
23 for his or her duties by training which includes being a  
24 licensed attorney and by experience and shall hold office  
25 at the pleasure of the judge. The compensation of the referee  
26 shall be fixed by the judge. The judge may direct that any  
27 case or class of cases arising under ~~chapter-232~~ this Act  
28 or chapter 600A shall be heard in the first instance by the  
29 referee in the manner provided for the hearing of cases by  
30 the court.

31 Sec. 81. Section two hundred thirty-three point one  
32 (233.1), subsection one (1), Code 1977, is amended to read  
33 as follows:

34 1. To encourage any child under eighteen years of age  
35 to commit any act of delinquency defined in ~~chapter-232-ef~~

1 ~~this-title~~ this Act.

2 Sec. 82. Section two hundred thirty-four point thirty-  
3 six (234.36), Code 1977, is amended to read as follows:

4 234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS. Each county  
5 shall pay from the county mental health and institutions fund  
6 as provided by section 444.12, subsection 2, the cost of  
7 foster care for a child placed by a court as provided in  
8 ~~section-232-33, subsection-3-or-4, or section-232-34,~~  
9 ~~subsection-3-or-4~~ section twenty-nine (29) or section fifty-  
10 four (54) of this Act. However, in any fiscal year for which  
11 the general assembly appropriates state funds to pay for  
12 foster care for children placed by courts under the ~~statutes~~  
13 statute or sections of this Act cited in this section, the  
14 county shall become responsible for these costs only when  
15 the funds so appropriated to the department for that fiscal  
16 year have been exhausted. The rate of payment by the county  
17 or the state, as the case may be, under this section shall  
18 be that fixed by the department of social services pursuant  
19 to section 234.38.

20 Sec. 83. Section two hundred thirty-eight point thirty-  
21 two (238.32), subsection one (1), Code 1977, is amended to  
22 read as follows:

23 1. Receive children in need of assistance, or delinquent  
24 children who are under eighteen years of age, under commitment  
25 from the juvenile court, and control and dispose of them  
26 subject to the provisions of ~~chapter-232~~ this Act and chapter  
27 600A.

28 Sec. 84. Section two hundred thirty-eight point forty-  
29 one (238.41), Code 1977, is amended to read as follows:

30 238.41 STATUTES NOT AFFECTED. Nothing contained in sec-  
31 tions 238.33 through 238.40 shall be deemed to affect or  
32 modify the provisions of ~~chapters-232-and~~ this Act or of  
33 chapter 600.

34 Sec. 85. Section two hundred forty-two point five (242.5),  
35 Code 1977, is amended to read as follows:

1 242.5 PROCEDURE TO COMMIT. The procedure for the commit-  
2 ment of children to the state training school, except as  
3 otherwise provided, shall be the same as provided in ~~chapter~~  
4 232 this Act.

5 Sec. 86. Section two hundred forty-four point four (244.4),  
6 Code 1977, is amended to read as follows:

7 244.4 PROCEDURE. The procedure for commitment to said  
8 homes shall be the same as provided by ~~chapter-232~~ this Act,  
9 but admission may be granted on voluntary applications signed  
10 by the legal custodian of the child and approved by a judge  
11 of a court of record, or by the board of supervisors, of the  
12 county of the child's residence. Such applications shall  
13 be subject to the approval of the state director and shall  
14 be in such form as he or she may prescribe. Any child not  
15 mentally normal, or who is incorrigible, or who has any vicious  
16 habits, or whose presence in the home would be inimical to  
17 the moral or physical welfare of normal children therein,  
18 shall be denied voluntary admission to the home.

19 Sec. 87. Section three hundred twenty-one point four  
20 hundred eighty-two (321.482), unnumbered paragraph one (1),  
21 Code 1977, is amended to read as follows:

22 It is a misdemeanor for any person to do any act forbid-  
23 den or to fail to perform any act required by any of the  
24 provisions of this chapter unless any such violation is by  
25 this chapter or other law of this state declared to be a  
26 felony. ~~Chapter-232~~ This Act shall have no application in  
27 the prosecution of offenses committed in violation of this  
28 chapter which are punishable by a fine of not more than one  
29 hundred dollars, or by imprisonment for not more than thirty  
30 days.

31 Sec. 88. Section three hundred twenty-one G (321G),  
32 subsection fourteen (14), unnumbered paragraph two (2), Code  
33 1977, is amended to read as follows:

34 ~~Chapter-232~~ This Act shall have no application in the  
35 prosecution of offenses which are committed in violation of

1 this chapter, and which are punishable by a fine of not more  
2 than one hundred dollars or by imprisonment for not more than  
3 thirty days.

4 Sec. 89. Chapter three hundred thirty-two point three  
5 (332.3), subsection three (3), Code 1977, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. To appoint an advocate to represent  
8 children alleged to be delinquent at the intake stage of  
9 juvenile delinquency proceedings pursuant to part three (3)  
10 of division two (II) of this Act.

11 Sec. 90. Section three hundred fifty-six point three  
12 (356.3), Code 1977, is amended by striking the section and  
13 inserting in lieu thereof the following:

14 356.3 JUVENILES CONFINED. A person under the age of  
15 eighteen years shall not be confined in a jail except as  
16 provided in this Act.

17 Sec. 91. Section six hundred A point five (600A.5),  
18 subsections one (1) and two (2), Code 1977, are amended to  
19 read as follows:

20 1. The following persons may petition a juvenile court  
21 for termination of parental rights under this chapter if the  
22 child of the parent-child relationship is born or expected  
23 to be born within one hundred eighty days of the date of the  
24 petition filing:

25 a. A parent or prospective parent of the parent-child  
26 relationship.

27 b. A custodian or guardian of the child.

28 ~~e. Any other person who has knowledge of circumstances~~  
29 ~~indicating that the parent-child relationship should be~~  
30 ~~terminated.~~

31 2. A petition for termination of parental rights shall  
32 be filed with the juvenile court in which the guardian or  
33 custodian of the child resides or the child or the pregnant  
34 woman is domiciled. However, If a juvenile court has made  
35 an order pertaining to a minor child under ~~section two-hundred~~

1 ~~thirty-two-point-thirty-three-(232-33)-of-the-Code~~ division  
2 three (III) of this Act and that order is still in force,  
3 the petition termination proceedings shall be ~~filed-with-that~~  
4 juvenile-court conducted pursuant to the provisions of division  
5 four (IV) of this Act.

6 Sec. 92. Section six hundred A point six (600A.6),  
7 subsection one (1), Code 1977, is amended to read as follows:

8 1. A termination of parental rights under this chapter  
9 shall, unless provided otherwise in this section, be  
10 effectuated only after notice has been served on all necessary  
11 parties and these parties have been given an opportunity to  
12 be heard before the juvenile court. A "necessary party"  
13 includes any person whose name, residence, and domicile is  
14 required to be included on the petition under section six  
15 hundred A point five (600 A.5), subsection three (3),  
16 paragraphs "a" and "b". However, a "necessary party" does  
17 not include a natural parent who has been adjudicated to have  
18 raped the other natural parent thereby producing the birth  
19 of the child designated in section six hundred A point five  
20 (600A.5), subsection three (3), paragraph "a".

21 Sec. 93. Section six hundred A point seven (600A.7),  
22 subsection one (1), Code 1977, is amended to read as follows:

23 1. The hearing on termination of parental rights shall  
24 be conducted in accordance ~~to~~ with the provisions of sections  
25 ~~232-27,-232-28,-232-30,-and-232-32~~ forty-four (44) through  
26 forty-nine (49) of this Act and otherwise in accordance with  
27 the rules of civil procedure. Such hearing shall be held  
28 not less than one week after the child is born.

29 Sec. 94. Section six hundred A point eight (600A.8), Code  
30 1977, is amended by striking subsections four (4), five (5),  
31 and six (6).

32 Sec. 95. Section six hundred A point nine (600A.9),  
33 subsections one (1) and two (2), Code 1977, are amended to  
34 read as follows:

35 1. Subsequent to the hearing on termination of parental

1 rights under this chapter, the juvenile court shall make a  
2 finding of facts and shall order that either:

- 3 a. The petition be dismissed; or,
- 4 ~~b.--The petition shall not be granted at that time, but~~  
5 ~~that conditions indicating that the child is in need of~~  
6 ~~assistance exist, and an order to that effect is issued~~  
7 ~~pursuant to section two hundred thirty-two point thirty-three~~  
8 ~~(232.33) of the Code, or~~

9 e b. The petition be granted. The juvenile court shall  
10 appoint a guardian and a custodian or a guardian only. An  
11 order issued under this paragraph shall include the finding  
12 of facts. This finding shall enumerate the factual basis  
13 which indicates that the parent-child relationship should  
14 be terminated and shall specify how this finding applies to  
15 the grounds upon which the termination is ordered.

16 2. If an order is issued under paragraph e b of subsection  
17 one (1) of this section, the juvenile court shall retain  
18 jurisdiction to change a guardian or custodian and to allow  
19 a terminated parent to request vacation of the termination  
20 order if:

- 21 a. The child is not on placement for adoption or a petition  
22 for adoption of the child is not on file; and,
  - 23 b. The guardian consents in writing to the vacation.
- 24 The juvenile court shall grant the vacation request if it  
25 is in the best interest of the child.

26 Sec. 96. Section six hundred twenty-two point ten (622.10),  
27 unnumbered paragraph one (1), Code 1977, is amended to read  
28 as follows:

29 No practicing attorney, counselor, advocate appointed by  
30 a county board of supervisors pursuant to this Act, physician,  
31 surgeon, or the stenographer or confidential clerk of any  
32 such person, who obtains such information by reason of his  
33 employment, minister of the gospel or priest of any  
34 denomination shall be allowed, in giving testimony, to disclose  
35 any confidential communication properly entrusted to him in

1 his professional capacity, and necessary and proper to enable  
2 him to discharge the functions of his office according to  
3 the usual course of practice or discipline. Such prohibition  
4 shall not apply to cases where the person in whose favor the  
5 same is made waives the rights conferred; nor shall such  
6 prohibition apply, as the same relates to physicians or  
7 surgeons or to the stenographer or confidential clerk of any  
8 such physicians or surgeons, in a civil action to recover  
9 damages for personal injuries or wrongful death in which the  
10 condition of the person in whose favor such prohibition is  
11 made is an element or factor of the claim or defense of such  
12 person or of any party claiming through or under such person.  
13 Such evidence shall be admissible upon trial of the action  
14 only as it relates to the condition alleged. If an adverse  
15 party desires the oral deposition, either discovery or  
16 evidentiary, of any such physician or surgeon to which such  
17 prohibition would otherwise apply or the stenographer or con-  
18 fidential clerk of any such physician or surgeon or desires  
19 to call any such physician or surgeon to which such prohibition  
20 would otherwise apply or the stenographer or confidential  
21 clerk of any such physician or surgeon as a witness at the  
22 trial of the action, he shall file an application with the  
23 court for permission to do so. The court upon hearing, which  
24 shall not be ex parte, shall grant such permission unless  
25 the court finds that the evidence sought does not relate to  
26 the condition alleged and shall fix a reasonable fee to be  
27 paid to such physician or surgeon by the party taking the  
28 deposition or calling the witness.

29 Sec. 97. Chapter two hundred thirty-two (232), Code 1977,  
30 is repealed.

31 Sec. 98. The provisions of this Act shall become effective  
32 January 1, 1978.

33 Sec. 99. The Code editor shall place the interstate  
34 compact, sections two hundred thirty-one point fourteen  
35 (231.14) and two hundred thirty-one point fifteen (231.15)

1 of the Code, in this Act as division seven (VII), following  
2 division six (VI) appeal. The Code editor shall place the  
3 child abuse mandatory reporting provisions, sections two  
4 hundred thirty-five A point three (235A.3) through two hundred  
5 thirty-five A point eleven (235A.11) of the Code in this Act  
6 as part two (') of division three (III).

7 EXPLANATION

8 This bill provides a complete reorganization of the Code  
9 dealing with juveniles and is presented in eight divisions.  
10 The first division sets out definitions, the second details  
11 juvenile delinquency proceedings, including provisions for  
12 taking a child into custody, detention and shelter care,  
13 acceptance of pleas, hearings at various stages of the  
14 proceedings, and dispositions.

15 The third division sets out provisions for child in need  
16 of assistance proceedings and covers generally the same topics  
17 as are included in division two. In addition, it provides  
18 for temporary removal of the child from the home.

19 Division four is concerned with involuntary termination  
20 of the parent-child relationship, division five provides for  
21 family in need of assistance proceedings, and division six  
22 sets out appeal provisions.

23 Division seven groups all the provisions for expenses and  
24 costs relating to court proceedings and care of children.  
25 Division eight sets out requirements for handling records  
26 concerning children.

27 Sections 79 through 99 correct related sections of the  
28 Code, repeal present chapter 232 and other sections of the  
29 Code which conflict with this Act, and direct the Code Editor  
30 to place the child abuse reporting provisions of chapter 235A  
31 and the interstate juvenile compact provisions within this  
32 Act.

33 The bill has an effective date of January 1, 1978.

34

35

I N D E X  
HOUSE FILE 248

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		<u>TEMPORARY REMOVAL OF A CHILD</u>
	38	TEMPORARY REMOVAL OF A CHILD PURSUANT TO EX PARTE COURT ORDER
45	39	REMOVAL WITHOUT COURT ORDER
46	40	HOMEMAKER SERVICES
47	41	COMPLAINT
	<u>DIVISION III - CHILD IN NEED OF ASSISTANCE PROCEEDINGS - PART 3</u>	
		<u>JUDICIAL PROCEEDINGS</u>
	42	FILING OF A PETITION--CONTENTS OF PETITION
48	43	SUMMONS, NOTICE, SUBPOENAS AND SERVICES
	44	RIGHT TO AND APPOINTMENT OF COUNSEL
	45	DUTIES OF COUNTY ATTORNEY
	46	PRESENCE OF PARENTS AT HEARINGS

<u>Page</u>	<u>Section</u>	<u>Headnote</u>
	47	EXCLUSION OF PUBLIC FROM HEARINGS
49	48	OTHER ISSUES ADJUDICATED
	49	REPORTER REQUIRED
	50	HEARING CONCERNING TEMPORARY REMOVAL
50	51	ADJUDICATORY HEARING
51	52	SOCIAL INVESTIGATION AND REPORT
52	53	PHYSICAL AND MENTAL EXAMINATIONS
	54	DISPOSITIONAL HEARING --FINDINGS
53	55	SUSPENDED JUDGMENT
	56	RETENTION OF CUSTODY BY PARENT
54	57	TRANSFER OF LEGAL CUSTODY OF JUVENILE AND PLACEMENT
55	58	TERMINATION, MODIFICATION, VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER
56	<u>DIVISION IV - TERMINATION OF PARENT -CHILD RELATIONSHIP PROCEEDING</u>	
57	59	JURISDICTION
	60	VENUE
	61	PETITION
58	62	NOTICE--SERVICE
59	63	GROUND FOR TERMINATION
61	64	TERMINATION--FINDINGS--DISPOSITION
	65	REMOVAL OF GUARDIAN
	<u>DIVISION V - FAMILY IN NEED OF ASSISTANCE</u>	
62	66	JURISDICTION
	67	VENUE
	68	MODIFICATION
	69	PETITION
63	70	APPOINTMENT OF COUNSEL AND GUARDIAN AD LITEM
	71	HEARING--ADJUDICATION--DISPOSITION
64	<u>DIVISION VI - APPEAL</u>	
	72	APPEAL
65	<u>DIVISION VII - EXPENSES AND COSTS</u>	
	73	EXPENSES CHARGED TO COUNTY
68	74	MAINTENANCE AND COST OF JUVENILE HOMES

<u>Page</u>	<u>Section</u>	<u>Headnote</u>
69		<u>DIVISION VIII - RECORDS</u>
	75	CONFIDENTIALITY OF JUVENILE COURT RECORDS
70	76	FINGERPRINTS--PHOTOGRAPHS
71	77	LAW ENFORCEMENT RECORDS
72	78	SEALING OF RECORDS
74	79	CRIMINAL PENALTIES
	80-96	Coordinating amendments
78	97	Effective date
	98	Code editor directions

Amend House File 248 as follows:

1. Page 30, by inserting after line 26 the following new subsection:

" 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 two hundred four (204) of the Code, is waived to district court for prosecution, the mandatory minimum sentence provided in chapter twelve hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter four (4), section two hundred twenty-five (225) 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.

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:

a. Five years have elapsed since the final discharge of that person; and

b. 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."

H-3937 FILED, ADOPTED BY  
RECEIVED UNANIMOUS  
CONSENT TO CONSIDER  
MAY 3, 1977 (p 1244)

SCHROEDER of Pottawattamie	LINDEN of Henry
HIGGINS of Scott	STEPHENS of Plymouth
BYERLY of Polk	WALTER of Pottawattamie
GARRISON of Black Hawk	MENKE of O'Brien
DAGGETT of Adams	HOFFMANN of Muscatine
MILLEN of Van Buren	HINKHOUSE of Cedar
HULLINGER of Decatur	SCHNEKLOTH of Scott
VARLEY of Adair	PELTON of Clinton
HARBOR of Mills	BENNETT of Ida
STROMER of Hancock	HOWELL of Plovd
CRABB of Crawford	TOFTE of Winnebiek
DANKER of Pottawattamie	SPEAR of Lee
HANSEN of O'Brien	CLARK of Cerro Gordo
OXLEY of Linn	WULF of Black Hawk
DIELEMAN of Marion	TAUKE of Dubuque
DUNTON of Keokuk	THOMPSON of Polk
WLEDEN of Hardin	PELLETT of Cass
WYCKOFF of Benton	HUSAK of Tama
HALVORSON of Clayton	EVANS of Grundy
BAKER of Buena Vista	EGENES of Story
WOODS of Polk	SPENCER of Clay
DEN HERDER of Sioux	MILLER of Calhoun
WEST of Marshall	
BROCKERT of Marshall	
SMALLEY of Polk	
CLARK of Lee	
WELLS of Linn	
BINNEBOESE of Plymouth	
MILLER of Buchanan	

HOUSE FILE 248

H-3939

- 1 Amend amendment H-3771, to page 33 of House
- 2 File 248, as follows:
- 3 1. Page 1, line 4, by inserting after the
- 4 word "A" the word "previous".

H-3939 FILED, ADOPTED BY CRABB of Crawford  
BY UNANIMOUS CONSENT (1839)  
MAY 3, 1977

HOUSE FILE 248

H-3940

- 1 Amend House File 248 as follows:
- 2 1. Page 13, line 10, by inserting after the
- 3 word "all" the word "adversary".

H-3940 FILED, ADOPTED BY BRANSTAD of Winnebago  
BY UNANIMOUS CONSENT (1840)  
MAY 3, 1977

HOUSE FILE 248

H-3753

- 1 Amend House File 248 as follows:
- 2 Page 26, line 7, by inserting after the word
- 3 "excluding" the word "Saturdays,"

H-3753 FILED - *adopted 5/3* BY WYCKOFF of Benton  
APRIL 25, 1977 (*p. 1811*)

HOUSE FILE 248

H-3751

- 1 Amend House File 248 as follows:
- 2 1. Page 17, line 1, by striking the words
- 3 "adjudicated delinquent only for a period of up",
- 4 2. Page 17, line 2, by striking the words
- 5 "to twenty-four hours".

H-3751 FILED - *adopted 5/3* BY MENKE of O'Brien  
APRIL 25, 1977 (*p. 1837*)  
(*amended to 3747*)

HOUSE FILE 248

H-3756

- 1 Amend House File 248 as follows:
- 2 1. Page 33, line 25, by striking the words
- 3 "or any other".
- 4 2. Page 33, line 26, by striking the words
- 5 "agency or individual".

H-3756 FILED - *Waikaruan* BY CHIODO of Polk  
APRIL 25, 1977 (*5/3 p. 1817*)

HOUSE FILE 248

H-3742

- 1 Amend House File 248 as follows:
- 2 1. Page 19, by inserting after line 2 the
- 3 following:
- 4 "
- 5 Communications between
- 6 the child and the intake officer shall be confidential as provided in section six hundred twenty-two
- 7 point ten (622.10) of the Code."

H-3742 FILED - *Loss 5/3* BY HARBOR of Mills  
APRIL 25, 1977 (*p. 1812*)

HOUSE FILE 248

H-3748

- 1 Amend House File 248 as follows:
- 2 Page 26, line 13, by inserting after the
- 3 period the following: "The hearing may be waived
- 4 for not more than fourteen days upon agreement by
- 5 the child, the child's counsel, and the parent,
- 6 guardian or custodian."

H-3748 FILED *Withdrawn* BY WYCKOFF of Benton  
APRIL 25, 1977 *5/3 (1816)*

HOUSE FILE 488

H-3749

- 1 Amend House File 248 as follows:
- 2 1. Page 40, by striking lines 7 and 8 and
- 3 inserting in lieu thereof the words "hearing at
- 4 which a preponderance of the evidence supports
- 5 such an action, either grant or deny a".

H-3749 FILED *Withdrawn* BY CONLON of Muscatine  
APRIL 25, 1977 *5/3 (p. 1817)*

HOUSE FILE 248

H-3750

- 1 Amend House File 248 as follows:
- 2 1. Page 64, line 9, by striking the word
- 3 "may" and inserting in lieu thereof the word
- 4 "shall".
- 5 2. Page 64, by inserting after line 11 the
- 6 following: "Such homes shall be established in
- 7 such locations as to provide reasonable access
- 8 and availability to each county in the state. Such
- 9 homes must be provided not later than July 1,
- 10 1981."
- 11 3. Page 64, line 14, by striking the word
- 12 "may" and inserting in lieu thereof the word
- 13 "shall".
- 14 4. Page 64, line 32, by striking the word
- 15 "may" and inserting in lieu thereof the word
- 16 "shall".

H-3750 FILED *Withdrawn* BY HANSEN of O'Brien  
APRIL 25, 1977 *13 adopted*  
*5/3 (p. 1837)*

H-3737

1 Amend House File 248 as follows:

2 1. Page 59, by striking lines 24 through 28  
3 and inserting in lieu thereof the following:  
4 "2. Such a petition may be filed by the  
A 5 child's parent, guardian, custodian, the child, or  
6 by any competent person having knowledge of the  
7 circumstances. The judge, county attorney, or  
8 probation officer may authorize such petition filed  
9 with the clerk of court without payment of a filing  
10 fee."

B 11 2. Page 60, by striking lines 19 and 20.

12 3. Page 60, by striking lines 33 through 35  
13 and inserting in lieu thereof the following:

C 14 "6. The court may order the child placed  
15 on probation, in a foster home, in a nonsecure  
16 facility or in a secure facility. In".

H-3737 FILED - *Withdrawn* BY KCOGLER of Mahaska  
APRIL 25, 1977 *5/3 (p. 1216)*

## HOUSE FILE 248

H-3740

1 Amend House File 248 as follows:

2 1. Page 18, by inserting after line 10 the  
3 following:

4 "d. Examine any physical evidence pertinent  
5 to the complaint.

6 e. Interview such persons as are necessary to  
7 determine whether the filing of a petition would be  
8 in the best interests of the child and the com-  
9 munity as provided in section sixteen (16), sub-  
10 sections two (2) and three (3) of this Act."

11 2. By renumbering sections and internal refer-  
12 ferences required by this amendment.

H-3740 FILED - *Out of order* BY HARBOR of Mills  
APRIL 25, 1977 *with a request*  
*of 38968*

## HOUSE FILE 248

H-3741

1 Amend House File 248 as follows:

2 1. Page 18, line 25, by inserting after the  
3 word "complaint" the words "subject to reversal with-  
4 in five days by the county attorney or by the  
5 juvenile court judge".

6 2. Page 18, line 31, by inserting after the  
7 word "Act" the words "subject to reversal by the  
8 juvenile court judge or his designee".

9 3. Page 19, line 2, by inserting after the  
10 word "Act" the words "or the intake officer may file  
11 a petition in accordance with section sixteen (16)  
12 of this Act".

13 4. Page 20, line 15, by inserting after the  
14 word "attorney" the words "or intake officer".

15 5. Page 20, by striking all of lines 17  
16 through 25.

H-3741 FILED - *Out 5/3 (1212)* BY HARBOR of Mills  
APRIL 25, 1977

H-3683

- 1 Amend House File 248 as follows:  
 2 1. Page 29, line 22, by inserting after the word  
 3 "determines" the words ", or has previously determined  
 in a detention hearing under section twenty-four (24)  
 of this Act,".

H-3683 FILED *Out of order* BY CONLON of Muscatine  
 APRIL 20, 1977 *with a copy*  
*of 35968*

## HOUSE FILE 248

H-3694

- 1 Amend House File 248 as follows:  
 2 1. Page 2, line 8, by striking the word  
 3 "physically".  
 4 2. Page 2, by striking from lines 9 and 10  
 5 the words "or is imminently likely to abuse or  
 6 neglect the child".

H-3694 FILED *Withdrawn* BY BRANSTAD of Winnebago  
 APRIL 20, 1977 *5/2 (1744)*

## HOUSE FILE 248

H-3695

- 1 Amend House File 248 as follows:  
 2 1. Page 47, by striking line 25, and by inserting  
 3 in lieu thereof the following:  
 4 "2. When a child is alleged to be a child in need  
 5 of assistance under section two (2), subsection six  
 6 (6), paragraphs f, g, or h, of this Act, the state  
 7 shall have the burden of proving the allegations  
 8 beyond a reasonable doubt. In all other child in  
 9 need of assistance proceedings, the state shall have  
 10 the burden of proving the alle-".

H-3695 FILED *Withdrawn* BY CONLON of Muscatine  
 APRIL 20, 1977 *5/3 (p. 1311)*

## HOUSE FILE 248

H-3696

- 1 Amend House File 248 as follows:  
 2 1. Page 4, by inserting after line 11 the following  
 3 paragraph:  
 4 "c. Willful and material disobedience to a lawful  
 5 order of court."

H-3696 FILED *Withdrawn 5/3* BY CONLON of Muscatine  
 APRIL 20, 1977

H-3671

1 Amend House File 248 as follows:

2 1. Page 2, by striking all of lines 13, 14,  
3 and 15 and inserting in lieu thereof the following:

4 "c. Who has suffered harmful effects as a result of:".

5 2. Page 2, line 19, by striking the word  
6 "minimum" and inserting in lieu thereof the word  
7 "reasonable".

8 3. Page 3, line 3, by striking the word  
9 "minimum" and inserting in lieu thereof the word  
10 "reasonable".

H-3671 FILED *Adopted*; BY BRANSTAD of Winnebago  
APRIL 19, 1977 *Withdrawn*  
*5/2 (1745)*

HOUSE FILE 248

H-3680

1 Amend House File 248 as follows:

2 1. Page 65, by inserting after line 12 the  
3 following subsection:

4 "\_\_\_\_\_ The juvenile court judge for each  
5 county in which a juvenile home has been established  
6 as provided in this section shall annually review  
7 the practices of said home and order the discontin-  
8 uance of any practice found not to be in the best  
9 interests of children placed therein by the court."

H-3680 FILED *Out of order* BY SMALLEY of Polk  
APRIL 20, 1977 *with adoption*  
*of 3896B*

HOUSE FILE 248

H-3681

1 Amend House File 248 as follows:

2 1. Page 34, by inserting after line 22 the  
3 following subsection:

4 "\_\_\_\_\_ At any time after the filing of a  
5 delinquency petition the court may order a physical  
6 or mental examination of the child if the following  
7 circumstances apply:

8 a. The court finds such examination to be in  
9 the best interest of the child; and

10 b. The parent, guardian or custodian and the  
11 child's counsel agree."

H-3681 FILED *Out of order* BY SMALLEY of POLK  
APRIL 20, 1977 *with adoption*  
*of 3896B*

HOUSE FILE 248

H-3682

1 Amend House File 248 as follows:

2 1. Page 1, line 21, by inserting after the word  
3 "time." the words "Abandonment includes, but does  
4 not require, willful and unreasonable delay by a  
5 parent, guardian, or custodian in taking custody of  
6 a child who has been taken into custody under section  
7 nine (9), subsection one (1), paragraph c, of this  
8 Act, or placed in shelter care under section ten (10),  
9 subsection one (1), paragraph c, of this Act."

H-3682 FILED *Out of order* BY CONLON of Muscatine  
APRIL 20, 1977 *with adoption*  
*of 3896B*

HOUSE FILE 248

H-3660

- 1 Amend House File 248 as follows:
- 2 1. Page 28, line 35, by striking the words ",
- 3 without a jury,".
- 4 2. Page 32, by striking lines 3 through 8, and
- 5 inserting in lieu thereof the words "ing a petition
- 6 alleging a child to be delinquent."
- 7 3. Page 32, line 15, by striking the words "or
- 8 a jury".
- 9 4. Page 33, line 4, by striking the words "or
- 10 jury".
- 11 5. Page 33, line 5, by striking the words "In
- 12 a case heard without a".
- 13 6. Page 33, line 6, by striking the words "jury,
- 14 the" and inserting in lieu thereof the word "The".
- 15 7. Page 33, line 9, by striking the words "or
- 16 jury".
- 17 8. Page 33, line 12, by striking the words "or
- 18 jury".

H-3660 FILED - *Out of order* BY BENNETT of Ida  
APRIL 19, 1977 *with adoption*  
*of 3896 B*

HOUSE FILE 248

H-3665

- 1 Amend House File 248 as follows:
- 2 1. Page 1, line 20, by striking the words
- 3 "a long or".

H-3665 FILED - *Out of order* BY BRANSTAD of Winnebago  
APRIL 19, 1977 *with adoption*  
*of 3896 B*

HOUSE FILE 248

H-3664

- 1 Amend House File 248 as follows:
- 2 1. Page 2, line 10, by striking the words
- 3 "or creates a" and by striking all of lines 11
- 4 and 12, and inserting in lieu thereof the words
- 5 "conditions harmful to the physical or mental
- 6 health and welfare of the child".

H-3664 FILED - *Withdrawn* BY BRANSTAD of Winnebago  
APRIL 19, 1977 *5/2 (1794)*

HOUSE FILE 248

H-3657

- 1 Amend House File 248 as follows:
- 2 1. Page 13, by inserting after line 11 the
- 3 following:
- 4 "Sec. \_\_\_\_ . NEW SECTION. SUSPENSION OF TIME
- 5 LIMITATIONS. Where the child requests a continuance
- 6 of delinquency proceedings, the court, in an order
- 7 granting the continuance, may suspend the time
- 8 limitations imposed on the state by this division
- 9 for a period of time not to exceed the length of the
- 10 continuance."

H-3657 FILED *Out of order* BY CONLON of Muscatine  
APRIL 19, 1977 *with adoption*  
*of 3846B*

HOUSE FILE 248

H-3658

- 1 Amend House File 248 as follows:
- 2 1. Page 1, by inserting after line 10 the
- 3 following:
- 4 "Sec. \_\_\_\_ . NEW SECTION. WAIVERABILITY OF
- 5 PROCEDURAL REQUIREMENTS. Unless otherwise provided,
- 6 and to the extent permitted by constitution and
- 7 statute, the procedural requirements of this chapter
- 8 may be waived by knowing and voluntary consent of
- 9 the parties."

H-3658 FILED *Hathelbrown* BY CONLON of Muscatine  
APRIL 19, 1977 *5/2 (p. 1790)*

HOUSE FILE 248

H-3659

- 1 Amend House File 248 as follows:
- 2 1. Page 1, by inserting after line 10 the
- 3 following:
- 4 "Sec. \_\_\_\_ . NEW SECTION. RULES OF EVIDENCE.
- 5 Unless otherwise provided, hearings held under this
- 6 Act shall be informal. As far as is practical, the
- 7 court shall follow the rules of evidence as prescribed
- 8 for administrative agencies under section seventeen
- 9 A point fourteen (17A.14) of the Code."
- 10 2. Page 29, by striking lines 17 and 13.
- 11 3. Page 47, by striking lines 27 through 29.

H-3659 FILED *Hathelbrown* BY CONLON of Muscatine  
APRIL 19, 1977 *5/2 (p. 1740)*

HOUSE FILE 248

H-3663

- 1 Amend House File 248 as follows:
- 2 1. Page 14, by striking lines 32 and 33 and
- 3 inserting in lieu thereof the following:
- 4 "may commit a felony, or may commit an act which
- 5 would inflict serious bodily harm on himself or
- 6 herself or another."

H-3663 FILED *Filed out of* BY BENNETT of Ida  
APRIL 19, 1977 *order with*  
*adoption of 3865*  
*5/3 (p. 1810)*

APRIL 20, 1977

PAGE 15

HOUSE FILE 248

3653

- 1 Amend House File 248 as follows:
- 2 1. Page 32, by striking lines 18 through 21, and
- 3 inserting in lieu thereof the following:
- 4 "5. Except as otherwise provided by this section,
- 5 the rules of privilege applicable to the trial of
- 6 criminal cases shall apply at the hearing."

H-3653 FILED - *Withdrawn* BY CONLON of Muscatine  
APRIL 19, 1977 *5/3 (1811)*

HOUSE FILE 248

H-3654

- 1 Amend House File 248 as follows:
- 2 1. Page 23, by striking line 21 and inserting
- 3 in lieu thereof the words: "proceedings under this
- 4 division. The court shall exclude the".
- 5 2. Page 23, by striking line 24 and inserting
- 6 in lieu thereof the words "are served by a public
- 7 hearing. The court shall admit the news media, or
- 8 any reasonable number of representatives thereof,
- 9 upon motion by the child. The court shall admit".

H-3654 FILED - *Lost 5/3* BY CONLON of Muscatine  
APRIL 19, 1977 *(p. 1215)*

HOUSE FILE 248

3655

- 1 Amend House File 248 as follows:
- 2 1. Page 19, by striking lines 15 and 16 and
- 3 inserting in lieu thereof the words "advice of his
- 4 or her attorney, or by the child with the consent
- 5 of a parent, guardian, or custodian if the child is
- 6 not represented by counsel."

H-3655 FILED - *Adopted* BY CONLON of Muscatine  
APRIL 19, 1977 *5/3 (p. 1213)*

HOUSE FILE 248

H-3656

- 1 Amend House File 248 as follows:
- 2 1. Page 23, line 12, by inserting after the word
- 3 "notification" the words ", or if the court finds
- 4 that a reasonably diligent effort has been made to
- 5 notify the child's parent, guardian, or custodian,
- 6 and the effort was unavailing".

H-3656 FILED - *One of* BY CONLON of Muscatine  
APRIL 19, 1977 *order with*  
*adoption of 38965*

HOUSE FILE 248

H-3661

- 1 Amend House File 248 as follows:
- 2 1. Page 60, line 28, by striking the words "or
- 3 other services" and inserting in lieu thereof the
- 4 words "and to comply with any other reasonable orders".

H-3661 FILED - *One of order* BY CONLON of Muscatine  
APRIL 19, 1977 *with adoption*  
*of 38965*

HOUSE FILE 248

H-3650

- 1 Amend amendment H-3516 to House File 248 as
- 2 follows:
- 3 1. Page 1, by striking lines 36 and 37.

H-3650 FILED - *Withdrawn* BY PELTON of Clinton  
APRIL 19, 1977 *5/2 (1784)*

HOUSE FILE 248

H-3651

- 1 Amend the amendment H-3516 to House File 248 as
- 2 follows:
- 3 Page 1, by inserting after line 26 the following:
- 4 "        Page 9, by inserting the following after
- 5 line 33:
- 6 "        In determining jurisdiction, the marital
- 7 status of the child at the time a petition is filed
- 8 under section sixteen (16) of this Act is con-
- 9 trolling." "

H-3651 FILED - *Adopted 5/2* BY CONLON of Muscatine  
APRIL 19, 1977 *(1784)*

HOUSE FILE 248

H-3652

- 1 Amend House File 248 as follows:
- 2 1. Page 30, line 20, by inserting after the word
- 3 "admissible" the words "as evidence in chief".
- 4 2. Page 32, line 23, by striking the words "into
- 5 evidence" and inserting in lieu thereof the words
- 6 "as evidence in chief".

H-3652 FILED - *Out of order* BY CONLON of Muscatine  
APRIL 19, 1977 *with adoption*  
*of 38 926*

H-3516

1 Amend House File 248 as follows:

2 1. Page 1, line 17, by striking the word "The".

3 2. Page 1, by striking lines 18 and 19 and  
4 inserting in lieu thereof the following: "Proof of  
5 abandonment must include both the intention to abandon  
6 and the acts by which the intention is carried out."

7 3. Page 1, by striking lines 25 through 30.

8 4. Page 1, line 32, by striking the word "A" and  
9 inserting in lieu thereof the words "An unmarried".

10 5. Page 1, by striking lines 33 through 35 and  
11 lines 1 through 4 on page 2.

12 6. Page 9, line 33, by striking the word "law."  
13 and inserting in lieu thereof the words: "law, and  
14 shall have exclusive original jurisdiction in  
15 proceedings concerning an adult who is alleged to  
16 have committed a delinquent act prior to having become  
17 an adult, provided that the taking of that person  
18 into custody for the alleged act or the filing of  
19 a delinquency petition alleging the commission of  
20 the act does not occur

21 (1) More than one year after the alleged commission  
22 of an act which would be a simple misdemeanor if  
23 committed by an adult; or

24 (2) More than two years after the alleged  
25 commission of an act which would be an offense other  
26 than a simple misdemeanor if committed by an adult."

27 7. Page 10, line 2, by striking the words "was  
28 under eighteen years of age at the time" and inserting  
29 in lieu thereof the words "is within the provisions  
30 of subsection one (1) of this section".

31 8. Page 10, line 3, by striking the words "of  
32 the alleged commission of the offense".

33 9. Page 10, line 19, by inserting after the word  
34 "court." the words "The juvenile court shall waive  
35 jurisdiction upon motion by the child."

36 10. Page 11, line 34, by striking the letter "b"  
37 and inserting in lieu thereof the letter "a".

38 11. Page 12, by striking lines 1 through 32 and  
39 inserting in lieu thereof the following:

40 "3. If the child is not represented by counsel  
41 as required under subsection one (1) of this section,  
42 counsel shall be provided as follows:

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

H-3516  
Page 2

1 five (5) of this section.

2 b. If the court determines that the parent,  
3 guardian or custodian cannot pay any part of the  
4 expenses of counsel to represent the child, it shall  
5 appoint such counsel, who shall be reimbursed according  
6 to the provisions of section seventy-two (72),  
7 subsection one (1), paragraph d, of this Act.

8 4. If the child is represented by counsel and  
9 the court determines that there is a conflict of  
10 interest between the child and his or her parent,  
11 guardian or custodian and that the retained counsel  
12 could not properly represent the child as a result  
13 of the conflict, the court shall appoint other counsel  
14 to represent the child and order the parent, guardian  
15 or custodian to pay for such counsel as provided in  
16 subsection five (5) of this section.

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

27 12. Page 12, by striking lines 33 through 35.

28 13. Page 13, by striking lines 1 through 7.

29 14. Page 17, by striking lines 6 through 15.

30 15. Page 21, line 30, by inserting after the word  
31 "for" the words "an adjudicatory".

32 16. Page 23, line 35, by inserting after the word  
33 "mechanical" the words "or electronic".

34 17. Page 24, line 21, by inserting after the word  
35 "custodian" the words "upon their demand".

36 18. Page 26, line 24, by inserting after the word  
37 "begin." the words "If the court finds that there  
38 has been reasonably diligent effort to give notice  
39 to a parent, guardian or custodian and that the effort  
40 has been unavailing, the hearing may proceed without  
41 such notice having been served."

42 19. Page 29, line 3, by striking the words  
43 "accordance with" and inserting in lieu thereof the  
44 words "the same manner as for adjudicatory hearings  
45 as provided in".

46 20. Page 29, line 4, by striking the words "the  
47 provisions of".

48 21. Page 29, line 6, by striking the words  
49 "accordance with the provisions of" and inserting  
50 in lieu thereof the words "the same manner as for

- 1 adjudicatory hearings as provided in".
- 2 22. Page 31, line 16, by striking the comma.
- 3 23. Page 31, line 17, by inserting after the word
- 4 "hearing," the words "or upon agreement by the
- 5 parties,".
- 6 24. Page 31, line 18, by striking the words "court
- 7 upon agreement" and inserting in lieu thereof the
- 8 word "court."
- 9 25. Page 31, by striking line 19.
- 10 26. Page 35, line 21, by inserting after the word
- 11 "ordering" the words "a work assignment or assignments
- 12 or from ordering".
- 13 27. Page 35, line 24, by striking the words "or
- 14 assignments" and inserting in lieu thereof the words
- 15 "of value to the victim".
- 16 28. Page 38, line 16, by inserting after the word
- 17 "age" the words ", except that in the case of an adult
- 18 within the jurisdiction of the court under the
- 19 provisions of section three (3), subsection one (1)
- 20 of this Act, the dispositional order shall
- 21 automatically terminate one year after the last date
- 22 upon which jurisdiction could attach."
- 23 29. Page 40, by striking lines 13 through 15 and
- 24 inserting in lieu thereof the following:
- 25 "Notice requirements of this section shall be
- 26 satisfied in the same manner as for adjudicatory
- 27 hearings as provided in section eighteen (18) of this
- 28 Act. At a hearing under this section all relevant
- 29 and material evidence shall be admitted."
- 30 30. Page 41, line 1, by inserting after the word
- 31 "age" the words "and marital status".
- 32 31. Page 41, by inserting after line 24 the
- 33 following new section:
- 34 "Sec. \_\_\_\_ . NEW SECTION. MODIFICATION OF CUSTODY
- 35 DECREE. During the pendency of an action under this
- 36 division, a parent without custody pursuant to a
- 37 decree of dissolution of marriage is estopped from
- 38 applying for a modification of the custody decree
- 39 in a court of this or any other state."
- 40 32. Page 43, line 17, by inserting after the word
- 41 "section" the words ", and any employer of or person
- 42 under the direction of such a person, agency, or
- 43 institution,".
- 44 33. Page 43, line 20, by inserting after the word
- 45 "keeping." the following: "The court shall not deny
- 46 immunity solely because of an inadvertent failure
- 47 to comply with the requirements of subsection two
- 48 (2) of this section."
- 49 34. Page 45, line 22, by striking the words
- 50 "accordance with the provisions of" and inserting

- 1 in lieu thereof the words "the same manner as for  
2 adjudicatory hearings in cases of juvenile delinquency  
3 as provided in".
- 4 35. Page 46, line 9, by inserting after the word  
5 "Act." the words "A parent without custody may petition  
6 the court to be made a party to proceedings under  
7 this division."
- 8 36. Page 50, line 23, by striking the words "at  
9 the conclusion" and inserting in lieu thereof the  
10 words "held during the last month".
- 11 37. Page 53, line 16, by striking the words  
12 "accordance with the provisions of" and inserting  
13 in lieu thereof the words "the same manner as for  
14 adjudicatory hearings in cases of juvenile delin-  
15 quency as provided in".
- 16 38. Page 55, line 22, by striking the word "heard"  
17 and inserting in lieu thereof the words "heard, except  
18 that notice may be dispensed with in the case of any  
19 such person whose name or whereabouts the court  
20 determines is unknown and cannot be ascertained by  
21 reasonably diligent search."
- 22 39. Page 55, by striking lines 23 through 26.
- 23 40. Page 59, line 18, by striking the word and  
24 figure "thirty-four (34)" and inserting in lieu thereof  
25 the word and figure "thirty-seven (37)".
- 26 41. Page 59, by inserting after line 18 the  
27 following new section:  
28 "Sec. \_\_\_\_ . NEW SECTION. MODIFICATION OF CUSTODY  
29 DECREE. During the pendency of an action under this  
30 division, a parent without custody pursuant to a  
31 decree of dissolution of marriage is estopped from  
32 applying for a modification of the custody decree  
33 in a court of this or any other state."
- 34 42. Page 60, by inserting after line 9 the  
35 following subsection:  
36 " \_\_\_\_ . A parent without custody may petition the  
37 court to be made a party to proceedings under this  
38 division."
- 39 43. Page 60, line 27, by inserting after the word  
40 "order" the words "any or all of".
- 41 44. Page 61, by inserting after line 9 the  
42 following new subsection:  
43 " \_\_\_\_ . If the hearing appealed from was held by  
44 other than a district court judge, appeal shall be  
45 to the district court. Subsequent review shall be  
46 at the discretion of the appellate courts."
- 47 45. Page 62, by striking lines 9 through 11.
- 48 46. Page 62, line 30, by inserting after the word  
49 "minor." the following: "An order entered under this  
50 section shall not obligate a parent paying child

Page 5

- 1 support under a custody decree, except that any part  
2 of such a monthly support payment may be used to  
3 satisfy the obligations imposed by an order entered  
4 under this section."
- 5 47. Page 73, by striking lines 4 through 10.
- 6 48. By striking page 75, line 26 through page  
7 76, line 28.
- 8 49. By renumbering, relettering, and correcting  
9 internal references to conform to this amendment.

HOUSE FILE 248

H-3798

- 1 Amend House File 248 as follows:
- 2 1. Page 9, by inserting after line 33 the
- 3 following:
- 4 "Violations by a child of provisions of chapters
- 5 one hundred six (106), one hundred twenty-three (123),
- 6 three hundred twenty-one (321), or three hundred
- 7 twenty-one G (321G) of the Code which would be simple
- 8 misdemeanors if committed by an adult, violations of
- 9 county or municipal curfew ordinances, and violations
- 10 by a child of the provisions of section one hundred
- 11 twenty-three point forty-seven (123.47) of the Code,
- 12 are excluded from the jurisdiction of the juvenile
- 13 court and shall be prosecuted as nonindictable
- 14 misdemeanors as provided by law."

H-3798 FILED - *One of order* BY SMALLEY of Polk  
APRIL 27, 1977 *with indigent* CONLON of Muscatine  
*§ 3896B* HIGGINS of Scott

HOUSE FILE 248

H-3807

- 1 Amend House File 248 as follows:
- 2 1. Page 3, by striking line 5 and inserting in
- 3 lieu thereof the words "or has available other means
- 4 to provide treatment."

H-3807 FILED - *adapted 5/2* BY JUNKER of Woodbury  
APRIL 27, 1977 *(p. 1796)*

HOUSE FILE 248

H-3809

- 1 Amend House File 248 as follows:
- 2 1. Page 2, line 35, by striking all after the
- 3 word "so".
- 4 2. Page 3, by striking line 1 and inserting in
- 5 lieu thereof the words "or has available other means.
- 6 to provide treatment."

H-3809 FILED - *adapted 5/2* BY JUNKER of Woodbury  
APRIL 27, 1977 *(p. 1796)*

HOUSE FILE 248

H-3811

- 1 Amend House File 248 as follows:
- 2 1. Page 1, line 32, by striking the words "age;
- 3 or" and inserting in lieu thereof the word "age."
- 4 2. Page 1, by striking lines 33 through page 2,
- 5 line 4.

H-3811 FILED - *Handwritten* BY JUNKER of Woodbury  
APRIL 27, 1977 *5/2 (p. 1771)*

H-3771

- 1 Amend House File 248 as follows:  
2 1. Page 33, by inserting after line 18 the  
3 following new subsection:  
4 "10. A finding that the child is a child in  
5 need of assistance in accordance with the provisions  
6 of this Act, whether prior to or subsequent to an  
7 adjudicatory hearing under this section, shall not  
8 preclude or nullify a finding that the child  
9 engaged in delinquent conduct."

H-3771 FILED - *Adopted* BY CRABB of Crawford  
APRIL 26, 1977 *3434 5/3 (p. 1837)*

HOUSE FILE 248

H-3774

- 1 Amend House File 248 as follows:  
2 1. Page 57, by striking lines 25 through  
3 35.  
4 2. Page 58, by striking lines 1 and 2.

H-3774 FILED - *Withdrawn* BY HALVORSON of Clayton  
APRIL 26, 1977 *(p. 1335)*

HOUSE FILE 248

H-3797

- 1 Amend House File 248 as follows:  
2 1. Page 53, line 33, by inserting after the word  
3 "Act." the following: "In addition to or in lieu  
4 of such an order, the court may impose a work  
5 assignment or assignments to benefit the state or  
6 a governmental subdivision of the state."  
7 2. Page 61, by inserting after line 3 the follow-  
8 ing:  
9 "7. A child who is found in contempt of court  
10 because of violation of conditions imposed under  
11 section seventy (70) of this Act shall not be con-  
12 sidered delinquent. Such a contempt may be punished  
13 by imposition of a work assignment or assignments  
14 to benefit the state or a governmental subdivision  
15 of the state. In addition to or in lieu of such an  
16 assignment or assignments, the court may impose one  
17 of the dispositions set out in sections fifty-five  
18 (55) through fifty-seven (57) of this Act."

H-3797 FILED - *Adopted* BY DOYLE of Woodbury  
APRIL 27, 1977 *3403 5/2 (p. 1321)*

HOUSE FILE 248

H-3799

- 1 Amend House File 248 as follows:  
2 1. Page 10, by inserting after line 27 the  
3 following:  
4 "4. Nothing in this Act shall be interpreted as  
5 affecting the statutory limitations on prosecutions  
6 for murder in the first or second degree."

H-3799 FILED - *Out of order* BY BRANSTAD of Winnebago  
APRIL 27, 1977 *with adoption of 3796* CONLON of Muscatine  
HIGGINS of Scott

HOUSE FILE 248

H-3818

- 1 Amend House File 248 as follows:
- 2 1. Page 47, line 35, by inserting after the
- 3 word "assistance" the following: "unless the
- 4 attorney for the child consents to such a
- 5 finding."

H-3818 FILED - *Adopted in* BY BRANSTAD of Winnebago  
APRIL 27, 1977 *amended by* *3723 5/3 (1317)*  
HOUSE FILE 248

H-3819

- 1 Amend House File 248 as follows:
- 2 1. Page 66, by inserting after line 2 the
- 3 following lettered paragraph:
- 4 "h. Representatives of the news media."

H-3819 FILED - *Loss 5/2* BY GENTLEMAN of Polk  
APRIL 27, 1977 *(p. 1830)*  
HOUSE FILE 248

H-3820

- 1 Amend House File 248 as follows:
- 2 1. Page 3, by inserting after line 8 the
- 3 following:
- 4 "\_\_\_\_\_. Who has been the subject of or a party
- 5 to sexual activities or poses for live display or
- 6 for photographic or other means of pictorial repro-
- 7 duction or display designed to appeal to the prurient
- 8 interest and is patently offensive; and taken as a
- 9 whole, lacks serious literary, scientific, political
- 10 or artistic value."

H-3820 FILED - *Adopted in* BY BRANSTAD of Winnebago  
APRIL 27, 1977 *amended by* *3426 5/3 (p. 1801)*  
HOUSE FILE 248

H-3821

- 1 Amend House File 248 as follows:
- 2 1. Page 2, line 13, by striking the words "neglect
- 3 or with" and inserting in lieu thereof the words
- 4 "neglect, or".
- 5 2. Page 2, by striking line 14 and inserting in
- 6 lieu thereof the words "who will possibly suffer
- 7 physical".

H-3821 FILED - *Text of order* BY JUNKER of Woodbury  
APRIL 27, 1977 *with exception* *to 2671A*  
HOUSE FILE 248

H-3822

- 1 Amend House File 248 as follows:
- 2 1. Page 2, line 9, by striking the words "is
- 3 imminently likely" and inserting in lieu thereof the
- 4 words "has indicated an intention".
- 5 2. Page 2, line 10, by striking the words "causes
- 6 or creates" and inserting in lieu thereof the words
- 7 "cause or create".

H-3822 FILED - *Hickelmann* BY JUNKER of Woodbury  
APRIL 27, 1977 *5/2 (174)*

HOUSE FILE 248

H-3813

- 1 Amend House File 248 as follows:
- 2 Page 50, line 21, by inserting after the period
- 3 the following: "Such terms and conditions may
- 4 include the supervision of the child and of the
- 5 parent, guardian or custodian by the depart-
- 6 ment of social services, juvenile probation
- 7 office or other appropriate agency designated
- 8 by the court".

H-3813 FILED - *Adopted 5/3* BY MILLER of Calhoun  
 APRIL 27, 1977 *(p. 1214)*

HOUSE FILE 248

H-3814

- 1 Amend House File 248 as follows:
- 2 1. Page 13, line 10, by inserting after the
- 3 word "state" the words ", at the request of the
- 4 court,".

H-3814 FILED - *Withdrawn 5/3* BY BRANSTAD of Winnebago  
 APRIL 27, 1977 *(p. 1214)*

HOUSE FILE 248

H-3815

- 1 Amend House File 248 as follows:
- 2 1. Page 32, line 3, by striking the words
- 3 "unless the and inserting in lieu thereof a period.
- 4 2. Page 32, by striking lines 4 through 8,
- 5 3. Page 32, line 15, by striking the words
- 6 "or a jury".
- 7 4. Page 33, line 4, by striking the words
- 8 "or jury".
- 9 5. Page 33, lines 5 and 6, by striking the
- 10 words "In a case heard without a jury, the" and
- 11 inserting in lieu thereof the word "The".
- 12 6. Page 33, line 9, by striking the words
- 13 "or jury".
- 14 7. Page 33, line 12, by striking the words
- 15 "or jury".

H-3815 FILED - *Out of order* BY BRANSTAD of Winnebago  
 APRIL 27, 1977 *and adopted*

HOUSE FILE 248

H-3816

- 1 Amend House File 248 as follows:
- 2 1. Page 19, line 18, by inserting after the
- 3 word "agreement" the following: "and a copy of said
- 4 agreement shall be given to the child; the counsel
- 5 for the child; the parent, guardian or custodian;
- 6 and the intake officer, who shall retain the copy
- 7 in the case file."

H-3816 FILED - *Adopted* BY BRANSTAD of Winnebago  
 APRIL 27, 1977 *amended by*

HOUSE FILE 248

H-3817

- 1 Amend House File 248 as follows:
- 2 1. Page 3, line 11, by inserting after the
- 3 word "a" the words "verbal or written".

H-3817 FILED - *Adopted 5/3* BY BRANSTAD of Winnebago  
 APRIL 27, 1977 *(p. 1907)*

HOUSE FILE 248

H-3834

- 1 Amend House File 248 as follows:
- 2 1. Page 5, line 34, by striking the words "at
- 3 intake".

H-3834 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 (*p. 1806*)

HOUSE FILE 248

H-3836

- 1 Amend House File 248 as follows:
- 2 1. Page 9, by striking lines 19 through 21 and
- 3 inserting in lieu thereof the following:
- 4 "54. "Termination of the parent-child relation-
- 5 ship" means the mutual divestment of the parent and
- 6 child of privileges, duties and powers with respect
- 7 to each other."

H-3836 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 (*p. 1808*)

HOUSE FILE 248

H-3837

- 1 Amend House File 248 as follows:
- 2 1. Page 11, line 21, by striking the words "at
- 3 an intake interview or otherwise" and inserting in
- 4 lieu thereof the words "at an interview".

H-3837 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 (*p. 1708*)

HOUSE FILE 248

H-3838

- 1 Amend House File 248 as follows:
- 2 1. Page 12, by striking lines 13 through 22 and
- 3 inserting in lieu thereof the word "Act."

H-3838 FILED - *Out of order* BY JUNKER of Woodbury  
APRIL 28, 1977 *with adoption*  
*of 2516 5/3 (1790)*

HOUSE FILE 248

H-3839

- 1 Amend House File 248 as follows:
- 2 1. Page 13, line 24, by striking the word
- 3 "material".

H-3839 FILED - *Amended* BY JUNKER of Woodbury  
APRIL 28, 1977 *with adoption*  
*5/3 (1794)*

HOUSE FILE 248

H-3823

- 1 Amend House File 248 as follows:
- 2 1. Page 1, line 26, by striking the words "the
- 3 interests of".

H-3823 FILED - *Same as order* BY JUNKER of Woodbury  
APRIL 27, 1977 *with adoption*  
*of 5516 5/2 (1790)*

HOUSE FILE 248

H-3824

- 1 Amend House File 248 as follows:
- 2 1. Page 2, by striking lines 28 and 29 and
- 3 inserting in lieu thereof the words "do so or has
- 4 available other means to provide treatment".

H-3824 FILED - *Adopted 5/2* BY JUNKER of Woodbury  
APRIL 27, 1977 *(p 1795)*

HOUSE FILE 248

H-3825

- 1 Amend House File 248 as follows:
- 2 1. Page 3, line 27, by striking the words "or
- 3 transfer to another".

G03825 FILED *Handwritten* BY JUNKER of Woodbury  
APRIL 27, 1977 *5/2 (1794)*

HOUSE FILE 248

H-3831

- 1 Amend House File 248 as follows:
- 2 1. Page 58, by striking lines 21 through 25,
- 3 and inserting in lieu thereof the following:
- 4 "4. If after a hearing the court does not
- 5 order the termination of parental rights but finds
- 6 that there is clear and convincing evidence that
- 7 the child is a child in need of assistance, under
- 8 section six (6) of this act, due to the acts or
- 9 omissions of one or both of his or her".

H-3831 FILED - *Adopted as* BY BRANSTAD of Winnebago  
APRIL 28, 1977 *amended by*  
*8735 5/2 (1836)*

HOUSE FILE 248

H-3832

- 1 Amend House File 248 as follows:
- 2 1. Page 19, line 15, by inserting after the
- 3 word "attorney" the following: "if such has been
- 4 retained or appointed as provided in section five
- 5 (5) of this act."

H-3832 FILED - *Adopted 5/3* BY BRANSTAD of Winnebago  
APRIL 28, 1977 *(p 813)*

HOUSE FILE 248

H-3840

- 1 Amend House File 248 as follows:
- 2 1. Page 14, by striking line 10 and inserting
- 3 in lieu thereof the words "care, but such placement
- 4 or continued detention in shelter care shall occur
- 5 only if a consultation is held among the counsel for
- 6 the child, the court of jurisdiction and the child."

H-3840 FILED - *Withdrawn* BY JUNKER of Woodbury  
APRIL 28, 1977 *5/2 (1594)*

HOUSE FILE 248

H-3841

- 1 Amend House File 248 as follows:
- 2 1. Page 14, line 20, by striking the words "run
- 3 away or otherwise".

H-3841 FILED - *Out of order* BY JUNKER of Woodbury  
APRIL 28, 1977 *with adoption of 3845 5/3 (p. 1809)*

HOUSE FILE 248

H-3848

- 1 Amend House File 248 as follows:
- 2 1. Page 19, line 35, by inserting after the word
- 3 "agreement" the words "during the period stipulated
- 4 in the agreement".

H-3848 FILED - *Lost* *5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 *(p. 1214)*

HOUSE FILE 248

H-3849

- 1 Amend House File 248 as follows:
- 2 1. Page 21, line 9, by striking the words "and
- 3 belief".

H-3849 FILED - *Withdrawn* BY JUNKER of Woodbury  
APRIL 28, 1977 *5/2 (1794)*

HOUSE FILE 248

H-3850

- 1 Amend House File 248 as follows:
- 2 1. Page 23, line 23, by striking the words "and
- 3 the public".

H-3850 FILED - *Lost* *5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 *(p. 1816)*

HOUSE FILE 248

H-3856

- 1 Amend House File 248 as follows:
- 2 1. Page 13, line 29, by inserting after the
- 3 word "possible" the following:
- 4 "and shall not physically restrain such child
- 5 unless the child physically resists or threatens
- 6 physical violence when being taken into custody".

H-3856 FILED - *Adopted* *5/3* BY MONROE of Des Moines  
APRIL 28, 1977 *(p. 1809)*

APRIL 29, 1977  
PAGE 6

HOUSE FILE 248

H-3842

- 1 Amend House File 248 as follows:
- 2 1. Page 14, line 29, by striking the words "run
- 3 away or be otherwise" and insert in lieu thereof the
- 4 word "be".

H-3842 FILED - *Out of order* BY JUNKER of Woodbury  
APRIL 28, 1977 *with notice*  
*of 3865 5/3 (p. 1810)*

HOUSE FILE 248

H-3843

- 1 Amend House File 248 as follows:
- 2 1. Page 15, line 1, by striking all after the
- 3 word "govern" in line 1 and lines 2 and 3 and insert-
- 4 ing in lieu thereof the words "the placement or
- 5 retention of the child in shelter care or detention."

H-3843 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 *(p. 1810)*

HOUSE FILE 248

H-3844

- 1 Amend House File 248 as follows:
- 2 1. Page 15, line 17, by striking the words "police
- 3 station, lockup,".
- 4 2. Page 15, line 18, by striking the words "jail,
- 5 prison or other".

H-3844 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 *(p. 1810)*

HOUSE FILE 248

H-3845

- 1 Amend House File 248 as follows:
- 2 1. Page 16, lines 18 and 19, by striking the words
- 3 "in a police station, jail, lockup, or other facility".

H-2845 FILED - *Adopted* BY JUNKER of Woodbury  
APRIL 28, 1977 *amended to*  
*3927 5/3 (p. 1810)*

HOUSE FILE 248

H-3846

- 1 Amend House File 248 as follows:
- 2 1. Page 19, line 14, by striking the words "and
- 3 intelligently".

H-3846 FILED - *Withdrawn* BY JUNKER of Woodbury  
APRIL 28, 1977 *5/2 (1794)*

HOUSE FILE 248

H-3847

- 1 Amend House File 248 as follows:
- 2 1. Page 19, by striking lines 22 through 24.
- 3 2. By relettering the paragraphs as necessary.

H-3847 FILED - *Withdrawn* BY JUNKER of Woodbury  
APRIL 28, 1977 *5/3 (p. 1814)*

H-3853

1 Amend House File 248 as follows:

2 1. Page 1, line 4, by striking the words "coming  
3 within" and inserting in lieu thereof the word "under".

4 2. Page 1, line 6, by inserting after the word  
5 "will" the word "best".

6 3. Page 1, line 7, by striking the words "state,  
7 and that" and inserting in lieu thereof the word  
8 "state".

9 4. Page 1, line 10, by striking the words "him  
10 or her by his or her" and inserting in lieu thereof  
11 the words "by the".

12 5. Page 1, line 23, by striking the word "whether"  
13 and inserting in lieu thereof the word "if".

14 6. Page 2, line 25, by striking the words  
15 "suffering serious physical injury" and inserting  
16 in lieu thereof the words "suffering, serious physical  
17 injury,".

18 7. Page 3, line 12, by striking the word "which".

19 8. Page 3, line 20, by striking the word "step-  
20 parent" and inserting in lieu thereof the word "step-  
21 parent".

22 9. Page 3, line 30, by striking the word  
23 "ordinary".

24 10. Page 4, line 25, by striking the word "at".

25 11. Page 4, line 26, by striking the word "intake".

26 12. Page 4, line 34, by striking the word "child"  
27 and inserting in lieu thereof the word "child,".

28 13. Page 4, line 35, by striking the word "child"  
29 and inserting in lieu thereof the word "child,".

30 14. Page 5, line 20, by striking the word  
31 "reasonable" and inserting in lieu thereof the word  
32 "periodic".

33 15. Page 7, line 29, by striking the word  
34 "nonaccidental" and inserting in lieu thereof the  
35 word "non-accidental".

36 16. Page 8, line 34, by striking the word "point"  
37 and inserting in lieu thereof the word "time".

38 17. Page 9, by striking line 3 through page 10,  
39 line 4 and inserting in lieu thereof the following:

40 "2. If a person has been charged with the commis-  
41 sion of a public offense not exempted by law from  
42 the jurisdiction of juvenile court in a court other  
43 than a juvenile court, and if the alleged commission  
44 of the offense occurred prior to the time that the  
45 defendant was eighteen years of age, the case shall  
46 be immediately transferred to the juvenile court.  
47 The transferring court".

48 18. Page 11, line 18, by striking the word  
49 "proceeding" and inserting in lieu thereof the words  
50 "the proceedings".

- 1 19. Page 12, line 2, by striking the words "who
- 2 is".
- 3 20. Page 12, line 9, by striking the words "an
- 4 attorney" and inserting in lieu thereof the word
- 5 "counsel".
- 6 21. Page 13, line 16, by striking the words
- 7 "Pursuant to an" and inserting in lieu thereof the
- 8 word "By".
- 9 22. Page 13, line 34, by striking the words "court,
- 10 if necessary," and inserting in lieu thereof the word
- 11 "court".
- 12 23. Page 14, line 7, by striking the word "super-
- 13 vision" and inserting in lieu thereof the word
- 14 "supervision."
- 15 24. Page 14, by striking line 8.
- 16 25. Page 16, lines 7 and 8, by striking the words
- 17 "services, or an institution or other facility" and
- 18 inserting in lieu thereof the words "services, or
- 19 one".
- 20 26. Page 17, line 22, by striking the word
- 21 "consulting" and inserting in lieu thereof the words
- 22 "after consultation".
- 23 27. Page 18, line 2, by striking the word "of,".
- 24 28. Page 18, line 3, by striking the word "to"
- 25 and inserting in lieu thereof the word "of".
- 26 29. Page 18, line 6, by striking the word "parent,"
- 27 and inserting in lieu thereof the words "parent or
- 28 parents,".
- 29 30. Page 18, line 12, by striking the word
- 30 "parent," and inserting in lieu thereof the words
- 31 "parent or parents,".
- 32 31. Page 18, line 14, by striking the word
- 33 "parent," and inserting in lieu thereof the words
- 34 "parent or parents,".
- 35 32. Page 20, by striking line 3 and inserting
- 36 in lieu thereof the following: "shall file a report
- 37 at least every six months with the court".
- 38 33. Page 23, line 29, by striking the words "or
- 39 in addition to".
- 40 34. Page 23, by striking line 31 and inserting
- 41 in lieu thereof the words "court, with the consent
- 42 of all necessary parties, may proceed".

H-3853 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
 APRIL 28, 1977 (*p. 1342*)

HOUSE FILE 248

H-3851

- 1 Amend House File 248 as follows:
- 2 1. Page 23, line 34, by striking the word
- 3 "REPORTER" and inserting in lieu thereof the words
- 4 "TRANSCRIPT OF HEARING".

H-3851 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
 APRIL 28, 1977 (*1316*)

*Reconsidered and Withdrawn 5/3 (p. 1316)*

HOUSE FILE 248

H-3863

Amend House File 248 as follows:

1. Page 1, line 7, by striking the words "state, and that" and inserting in lieu thereof the word "state."
2. Page 1, line 7, by striking the word "when" and inserting in lieu thereof the word "When".

H-3863 FILED - *Withdrawn* BY JUNKER of Woodbury  
APRIL 28, 1977 *5/2 (p. 1790)*

HOUSE FILE 248

H-3865

Amend House File 248 as follows:

1. Page 14, by striking lines 16 through 33 and inserting in lieu thereof the following:
  - "2. No child shall be placed or retained in detention unless:
    - a. The child is being held under warrant for another jurisdiction; or
    - b. The child is an escapee from a juvenile correctional or penal institution; or
    - c. There is probable cause to believe that the child has violated conditions of release imposed under section thirty-four (34) of this Act and there is a substantial probability that the child will run away or be otherwise unavailable for subsequent court appearance; or
    - d. There is probable cause to believe the child has committed a delinquent act and:
      - (1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or,
      - (2) There is a serious risk that the child if released may commit an act which would inflict serious bodily harm on himself or herself or on another."

H-3865 FILED - *Adopted 5/3* BY SMALLEY of Polk  
APRIL 28, 1977 *(p. 1809)* HIGGINS of Scott  
CONLON of Muscatine

HOUSE FILE 248

H-3866

Amend House File 248 as follows:

1. Page 19, by inserting after line 2 the following subsection:
  - "\_\_\_\_\_ . Communications between the child and the intake officer shall be confidential as provided in section six hundred twenty-two point ten (622.10) of the Code."

H-3866 FILED - *Withdrawn* BY SCHROEDER of Pottawattamie  
APRIL 28, 1977 *5/3 (p. 1812)*

H-3862

1 Amend House File 248 as follows:

2 1. Page 24, lines 14 and 15, by striking the words  
3 "engage in discussion with a view toward reaching"  
4 and inserting in lieu thereof the words "mutually  
5 consider".

6 2. Page 24, line 33, by striking the words "his  
7 or her" and inserting in lieu thereof the word "the".

8 3. Page 24, line 34, by striking the words "That  
9 he or she" and inserting in lieu thereof the words  
10 "The defendant".

11 4. Page 25, line 1, by striking the words "That  
12 if he or she" and inserting in lieu thereof the words  
13 "If the defendant".

14 5. Page 25, line 2, by striking the words "he  
15 or she" and inserting in lieu thereof the word  
16 "defendant".

17 6. Page 25, line 15, by striking the word "address"  
18 and inserting in lieu thereof the word "advise".

19 7. Page 25, line 16, by striking the words "and  
20 advise the child".

21 8. Page 26, line 20, by striking the word "Notice"  
22 and inserting in lieu thereof the words "A notice".

23 9. Page 27, line 16, by striking the word "abode"  
24 and inserting in lieu thereof the word "residence".

25 10. Page 27, line 31, by striking the word "for"  
26 and lines 32 and 33 and inserting in lieu thereof  
27 the words "until the adjudicatory hearing is held  
28 or for a period not exceeding seven days whichever  
29 is shorter."

30 11. Page 28, line 28, by striking the word  
31 "alleging" and inserting in lieu thereof the words  
32 "that alleges".

33 12. Page 28, line 35, by striking the words "shall,  
34 without a jury," and inserting in lieu thereof the  
35 word "shall".

36 13. Page 29, line 1, by inserting after the word  
37 "ing" the words "without a jury".

38 14. Page 29, line 2, by striking the word "Notice"  
39 and inserting in lieu thereof the words "A notice".

40 15. Page 29, line 2, by striking the word "stating"  
41 and inserting in lieu thereof the words "that states".

42 16. Page 29, line 11, by striking the words "as  
43 to whether".

44 17. Page 29, line 12, by inserting after the word  
45 "waive" the word "its".

46 18. Page 29, line 28, by striking the word  
47 "delinquent" and inserting in lieu thereof the word  
48 "delinquent,".

H-3862 FILED - *Adopted 5/3* BY JUNKER of Woodbury  
APRIL 28, 1977 *(p. 1343)*

1 Amend House File 248 as follows:

2 1. Page 1, by inserting after line 10 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. WAIVERABILITY OF PRO-  
5 CEDURAL REQUIREMENTS. Unless otherwise provided,  
6 and to the extent permitted by constitution and stat-  
7 ute, the procedural requirements of this chapter are  
8 waivable. Before allowing a waiver of any hearing  
9 provided for in this chapter, the court shall inquire  
10 of all parties to determine that their respective  
11 waivers are knowing and voluntary." B

12 2. Page 1, line 20, by striking the words "a long  
13 or".

14 3. Page 1, line 21, by inserting after the word  
15 "time." the words "Abandonment includes, but does  
16 not require, willful and unreasonable delay by a  
17 parent, guardian, or custodian in taking custody of  
18 a child who has been taken into custody under section  
19 nine (9), subsection one (1), paragraph c, of this  
20 Act, or placed in shelter care under section ten (10),  
21 subsection one (1), paragraph c, of this Act."

22 4. Page 9, by inserting the following after line  
23 33:

24 " \_\_\_\_ . In determining jurisdiction, the marital  
25 status of the child at the time a petition is filed  
26 under section sixteen (16) of this Act is con-  
27 trolling." A  
#1745  
S/A (P. 1745)

28 5. Page 9, by inserting after line 33 the  
29 following: B

30 "Violations by a child of provisions of chapters  
31 one hundred six (106), one hundred twenty-three (123),  
32 three hundred twenty-one (321), or three hundred  
33 twenty-one G (321G) of the Code which would be simple  
34 misdemeanors if committed by an adult, violations  
35 of county or municipal curfew ordinances, and  
36 violations by a child of the provisions of section  
37 one hundred twenty-three point forty-seven (123.47)  
38 of the Code, are excluded from the jurisdiction of  
39 the juvenile court and shall be prosecuted as  
40 nonindictable misdemeanors as provided by law."

41 6. Page 10, by inserting after line 27 the  
42 following:

43 "4. Nothing in this Act shall be interpreted as  
44 affecting the statutory limitations on prosecutions  
45 for murder in the first or second degree."

46 7. Page 13, by inserting after line 11 the  
47 following:

48 "Sec. \_\_\_\_ . NEW SECTION. SUSPENSION OF TIME LIM-  
49 TATIONS. Where the child requests a continuance of  
50 delinquency proceedings, the court, in an order

1 granting the continuance, may suspend the time  
2 limitations imposed on the state by this division  
3 for a period of time not to exceed the length of the  
4 continuance."

5 8. Page 18, by inserting after line 10 the  
6 following:

7 "d. Examine any physical evidence pertinent to  
8 the complaint.

9 e. Interview such persons as are necessary to  
10 determine whether the filing of a petition would be  
11 in the best interests of the child and the community  
12 as provided in section sixteen (16), subsections  
13 two (2) and three (3) of this Act."

14 9. Page 23, line 12, by inserting after the word  
15 "notification" the words ", or if the court finds  
16 that a reasonably diligent effort has been made to  
17 notify the child's parent, guardian, or custodian,  
18 and the effort was unavailing".

19 10. Page 28, line 35, by striking the words ",  
20 without a jury,".

21 11. Page 29, line 22, by inserting after the word  
22 "determines" the words ", or has previously determined  
23 in a detention hearing under section twenty-four (24)  
24 of this Act,".

25 12. Page 30, line 20, by inserting after the word  
26 "admissible" the words "as evidence in chief".

27 13. Page 32, by striking lines 3 through 8, and  
28 inserting in lieu thereof the words "ing a petition  
29 alleging a child to be delinquent."

30 14. Page 32, line 15, by striking the words "or  
31 a jury".

32 15. Page 32, line 23, by striking the words "into  
33 evidence" and inserting in lieu thereof the words  
34 "as evidence in chief".

35 16. Page 33, line 4, by striking the words "or  
36 jury".

37 17. Page 33, line 5, by striking the words "In  
38 a case heard without a".

39 18. Page 33, line 6, by striking the words "jury,  
40 the" and inserting in lieu thereof the word "The"

41 19. Page 33, line 9, by striking the words "or  
42 jury".

43 20. Page 33, line 12, by striking the words "or  
44 jury".

45 21. Page 34, by inserting after line 22 the  
46 following subsection:

47 "\_\_\_\_\_. At any time after the filing of a delin-  
48 quency petition the court may order a physical or  
49 mental examination of the child if the following cir-  
50 cumstances apply:

- 1 a. The court finds such examination to be in the
- 2 best interest of the child; and
- 3 b. The parent, guardian or custodian and the
- 4 child's counsel agree."
- 5 22. Page 60, line 28, by striking the words "or
- 6 other services" and inserting in lieu thereof the
- 7 words "and to comply with any other reasonable orders".
- 8 23. Page 65, by inserting after line 12 the
- 9 following subsection:
- 10 " . The juvenile court judge for each county
- 11 in which a juvenile home has been established as
- 12 provided in this section shall annually review the
- 13 practices of said home and order the discontinuance
- 14 of any practice found not to be in the best inter-
- 15 ests of children placed therein by the court."
- 16 24. By renumbering sections and internal refer-
- 17 ences required by this amendment.

H-3896 FILED *B. Adopted* BY CONLON of Muscatine  
 APRIL 29, 1977 *5/2 (p. 1743)* BRANSTAD of Winnebago  
 SMALLEY of Polk  
 CLARK of Cerro Gordo  
 SHIMANEK of Jones  
 JUNKER of Woodbury  
 LIPSKY of Linn  
 GENTLEMAN Of Polk  
 HIGGINS of Scott  
 JESSE of Polk

HOUSE FILE 248

H-3770

- 1 Amend House File 248 as follows:
- 2 1. Page 18, by inserting after line 10 the fol-
- 3 lowing:
- 4 "d. Examine any physical evidence pertinent to
- 5 the complaint.
- 6 e. Interview such persons as are necessary to
- 7 determine whether the filing of a petition would be
- 8 in the best interests of the child and the community."

H-3770 FILED *Out of order* BY SMALLEY of Polk  
 APRIL 26, 1977 *with adoption*  
*of 35766*

HOUSE FILE 248

H-3604

- 1 Amend House File 248 as follows:
- 2 1. Page 11, by striking lines 17 through 22
- 3 and inserting in lieu thereof the following:
- 4 "1. A child shall have the right to counsel in
- 5 all cases where a petition in delinquency is filed
- 6 and during the following procedures:".
- 7 2. Page 11, line 34, by striking the words
- 8 ", paragraphs b through f".
- 9 3. Page 18, by striking from lines 18 and 19
- 10 the words "the assistance of counsel and the right
- 11 to".
- 12 4. Page 19, line 15, by striking the words
- 13 "attorney and of the child's".

H-3604 FILED - *Withdrawn*  
APRIL 18, 1977 *5/2 (p. 1808)* BY PELTON of Clinton

HOUSE FILE 248

H-3707

- 1 Amend House File 248 as follows:
- 2 1. By striking the enacting clause.

H-3707 FILED - *Withdrawn*  
APRIL 21, 1977 *5/2 (p. 1788)* BY MILLER of Buchanan

HOUSE FILE 248

H-3892

- 1 Amend House File 248 as follows:
- 2 1. Page 32, by striking lines 24 through 28.

H-3892 FILED - *Withdrawn*  
APRIL 29, 1977 *5/2 (p. 1817)* BY WYCKOFF of Benton

HOUSE FILE 248

H-3894

- 1 Amend H-3516 to House File 248 as follows:
- 2 1. Page 1, by striking lines 36 and 37 and
- 3 inserting in lieu thereof the following:
- 4 "10. Page 11, line 35, by striking the word
- 5 "waived." and inserting in lieu thereof the words
- 6 "waived by a child of any age. The child's right
- 7 to be represented by counsel under paragraph a of
- 8 subsection one (1) of this section shall not be waived
- 9 if the child is less than fourteen years of age except
- 10 when the child is alleged to have committed an offense
- 11 against property for which the informal adjustment
- 12 demanded of the child is monetary restitution of up
- 13 to two hundred dollars, which may include damages
- 14 other than special damages in an amount not more than
- 15 fifty dollars."

H-3894 FILED - *Withdrawn*  
APRIL 29, 1977 *(1789)* BY HIGGINS of Scott  
CONLON of Muscatine  
BRUNSTAD of Winnebago

HOUSE FILE 248

H-3933

- 1 Amend amendment H-3818, to page 47 of House
- 2 File 248, as follows:
- 3 1. Page 1, by striking line 4 and inserting
- 4 in lieu thereof the following: "attorneys for
- 5 the child and the parents consent to such a".

H-3933 FILED, ADOPTED BY BRANSTAD of Winnebago  
BY UNANIMOUS CONSENT (1819)  
MAY 3, 1977

HOUSE FILE 248

H-3934

- 1 Amend amendment H-3903, to amendment H-3797
- 2 to page 53 of House File 548, as follows:
- 3 1. Page 1, lines 6 and 7, by striking the
- 4 words "a secure facility" and inserting in lieu
- 5 thereof the word "detention".
- 6 2. Page 1, line 8, by striking the words
- 7 "a secure facility" and inserting in lieu thereof
- 8 the word "detention".

H-3934 FILED, ADOPTED BY CONLON of Muscatine  
BY UNANIMOUS CONSENT (p. 1820)  
MAY 3, 1977

HOUSE FILE 248

H-3603

- 1 Amend House File 248 as follows:
- 2 1. Page 3, by inserting after line 8 the
- 3 following lettered paragraph:
- 4 "\_\_\_\_\_. Whose social habits and behavior exhibit
- 5 continual and unreasonable disrespect to parental,
- 6 school, or judicial authority, including but not
- 7 limited to runaway, truancy, or incorrigibility."

H-3603 FILED. Lost 5/2 BY PELTON of Clinton  
APRIL 18, 1977 (1777)

HOUSE FILE 248

H-3926

- 1 Amend amendment H-3820, to page 3 of House
- 2 File 248, as follows:
- 3 1. Page 1, line 5, by inserting after the
- 4 word "activities" the words "for hire".
- 5 2. Page 1, line 5, by inserting after the
- 6 first word "or" the word "who".
- 7 3. Page 1, line 7, by inserting after the
- 8 word "display" the words "which is".

H-3926 FILED, ADOPTED BY BRANSTAD of Winnebago  
BY UNANIMOUS CONSENT (p. 1807)  
MAY 3, 1977

HOUSE FILE 248

H-3927

- 1 Amend amendment H-3845, to page 16 of House
- 2 File 248, as follows:
- 3 1. Page 1, by striking lines 2 and 3 and
- 4 inserting in lieu thereof the following:
- 5 "1. Page 1, line 18, by striking the words
- 6 "police station, jail, lockup, or other"."

H-3927 FILED, ADOPTED BY LIPSKY of Linn  
BY UNANIMOUS CONSENT (p. 1810)  
MAY 3, 1977

HOUSE FILE 248

H-3928

- 1 Amend amendment H-3816, to page 19 of House
- 2 File 248, as follows:
- 3 1. Page 1, line 3, by striking the word
- 4 "said" and inserting in lieu thereof the word
- 5 "this".

H-3928 FILED, ADOPTED BY CONLON of Muscatine  
BY UNANIMOUS CONSENT (p. 1812)  
MAY 3, 1977

HOUSE FILE 248

H-3929

- 1 Amend amendment H-3751, to page 17 of House
- 2 File 248, as follows:
- 3 1. Page 1, line 5, by inserting after the
- 4 word "hours" the words "while the adjudicated
- 5 child is".

H-3929 FILED, ADOPTED BY MENKE of O'Brien  
MAY 3, 1977 (p. 1828)

HOUSE FILE 248

H-3935

- 1 Amend amendment H-3831, to page 58 of House
- 2 File 248, as follows:
- 3 1. Page 1, line 8, by inserting after the
- 4 word "section" the following: "two (2), subsection".

H-3935 FILED, ADOPTED BY BRANSTAD of Winnebago  
BY UNANIMOUS CONSENT, MAY 3, 1977  
(p. 1836)

HOUSE FILE 248

H-3910

- 1 Amend House File 248 as follows:
- 2 1. Page 57, line 26, by striking the word
- 3 "shall" and inserting in lieu thereof the word
- 4 "need".

H-3910 FILED - *Adopted 5/3* BY HALVORSON of Clayton  
MAY 2, 1977 (*p. 1835*)

HOUSE FILE 248

H-3911

- 1 Amend House File 248 as follows:
- 2 1. Page 76, by striking line 32 and inserting in
- 3 lieu thereof the following:
- 4 "January 1, 1979."

H-3911 FILED - *Adopted 5/3* BY HIGGINS of Scott  
MAY 2, 1977 (*p. 1838*)

HOUSE FILE 248

H-3921

- 1 Amend House File 248 as follows:
- 2 1. Page 2, line 19, by striking the word
- 3 "minimum" and inserting in lieu thereof the
- 4 word "minimal".
- 5 2. Page 3, line 3, by striking the word
- 6 "minimum" and inserting in lieu thereof the
- 7 word "minimal".

H-3921 FILED, ADOPTED BY BRANSTAD of Winnebago  
BY UNANIMOUS CONSENT (*1795*)  
MAY 2, 1977

HOUSE FILE 248

H-3752

- 1 Amend House File 248 as follows:
- 2 1. Page 35, line 1, by inserting after the
- 3 word "may" the words "take the matter of disposi-
- 4 tion under advisement and order such care, custody
- 5 and treatment as the best interests of the child may
- 6 require for not longer than one year, or the court
- 7 may".

H-3752 FILED - *Adopted 5/3* BY MENKE of O'Brien  
APRIL 25, 1977 (*p. 1818*)

Amend House File 248 as follows:

1. Page 56, line 20, by striking the words "clear and convincing".
2. Page 56, line 21, by inserting after the word "evidence" the words "beyond a reasonable doubt".
3. Page 56, line 31, by striking the words "clear and convincing evidence" and inserting in lieu thereof the words "evidence beyond a reasonable doubt".
4. Page 57, line 8, by striking the words "clear and convincing evidence" and inserting in lieu thereof the words "evidence beyond a reasonable doubt".
5. Page 57, line 11, by striking the words "clear and convincing evidence" and inserting in lieu thereof the words "evidence beyond a reasonable doubt".
6. Page 57, line 22, by striking the words "clear and convincing evidence" and inserting in lieu thereof the words "evidence beyond a reasonable doubt".
7. Page 57, line 31, by striking the words "clear and convincing evidence" and inserting in lieu thereof the words "evidence beyond a reasonable doubt".
8. Page 58, line 7, by striking the words "by clear" and inserting in lieu thereof the words "beyond a reasonable doubt".
9. Page 58, line 8, by striking the words "and convincing evidence".
10. Page 58, line 22, by striking the word "clear".
11. Page 58, line 23, by striking the words "and convincing evidence" and inserting in lieu thereof the words "evidence beyond a reasonable doubt".

H-3908 FILED - *Done 5/3* BY DOYLE OF WOODBURY  
MAY 2, 1977 *(1835)*

HOUSE FILE 248

H-3903

Amend H-3797 to House File 248 as follows:

1. By inserting after line 18 the following:  
"If the court finds that the child has refused to comply with an order of the court under the preceding paragraph punishing him or her for contempt, the court may order the child placed in a secure facility for not more than two (2) weeks. The court shall not place a child in a secure facility unless it is satisfied that there exists no other way by which the child can be effectivly punished for the contempt."

H-3903 FILED - *Adopted on* BY HIGGINS OF SCOTT  
MAY 2, 1977 *amended by* CONLON OF MUSCATTINE  
*3934 5/3/77*

HOUSE FILE 248

H-3909

Amend H-3516 to House File 248 as follows:

1. Page 1, line 6, by inserting after the word
- 2 "out." the words "The term does not require"/
- 3

H-3909 FILED, ADOPTED (178) BY JESSE OF POIK  
MAY 2, 1977

H-3899

1 Amend House File 248 as follows:

2 1. Page 30, line 4, by striking the word "child's".

3 2. Page 30, lines 30 and 31, by striking the words  
4 "may, on motion of the county attorney or counsel  
5 for the child,".6 3. Page 30, line 31, by inserting before the word  
7 "suspend" the word "may".8 4. Page 30, line 32, by inserting after the word  
9 "proceedings" the words "on motion of the county  
10 attorney or the child's counsel".11 5. Page 31, line 8, by striking all after the  
12 word "court" and lines 9 and 10 and inserting in lieu  
13 thereof the words "shall proceed to determine the  
14 appropriateness of entering a consent decree after  
15 consideration of any objections or reasons for entering  
16 such a decree."17 6. Page 42, line 32, by striking the words "his  
18 or her".19 7. Page 43, line 25, by inserting after the word  
20 "parent" the words "or parents".H-3899 FILED - *adopted 5/3* BY JUNKER of Woodbury  
MAY 2, 1977 (*p 1831*)

HOUSE FILE 248

H-3900

Amend House File 248 as follows:

2 1. Page 34, by striking line 3 and inserting in  
3 lieu thereof the words "within twenty-four hours of  
4 such removal."H-3900 FILED - *adopted 5/3* BY JUNKER of Woodbury  
MAY 2, 1977 (*p 1818*)

HOUSE FILE 248

H-3901

1 Amend House File 248 as follows:

2 1. Page 34, line 3, by striking the words "The  
3 court may in its" and lines 4 through 9.H-3901 FILED - *Withdrawn* BY JUNKER of Woodbury  
MAY 2, 1977 (*5/2 (1744)*)

HOUSE FILE 248

H-3904

1 Amend House File 248 as follows:

2 1. Page 2, line 33, by adding after the word  
3 "toward" the words "self or".H-3904 FILED - *adopted 5/2* BY SVOBODA of Iowa  
MAY 2, 1977 (*p 1796*)

HOUSE FILE 248

H-3898

- 1 Amend House File 248 as follows:
- 2 1. Page 38, line 19, by striking the word "nine"
- 3 and inserting in lieu thereof the word "six".

H-3898 FILED - *adopted 5/3 (1877)* BY JUNKER of Woodbury  
MAY 2, 1977

HOUSE FILE 248

H-3905

- 1 Amend House File 248 as follows:
- 2 1. Page 60, line 29, by inserting after the word
- 3 "relationship." the words "At the conclusion of such
- 4 services, or at any other time deemed necessary, the par-
- 5 ties shall be required to meet together and be appraised
- 6 of the findings and recommendations of such services."

H-3905 FILED - *adopted 5/3* BY CONNORS of Polk  
MAY 2, 1977 (*p. 183C*)

HOUSE FILE 248

H-3907

- 1 Amend H-3516 to House File 248 as follows:
- 2 1. Page 1, by striking lines 36 and 37 and
- 3 inserting in lieu thereof the following:
- 4 "10. Page 11, line 35, by striking the word
- 5 "waived." and inserting in lieu thereof the words
- 6 "waived by a child of any age. The child's right
- 7 to be represented by counsel under paragraph a of
- 8 subsection one (1) of this section shall not be waived
- 9 if the child is less than fourteen years of age except
- 10 when the child is alleged to have committed an offense
- 11 for which the informal adjustment demanded of the
- 12 child is monetary restitution of up to two hundred
- 13 dollars, which may include damages other than special
- 14 damages in an amount not more than fifty dollars.""

H-3907 FILED, ADOPTED BY HIGGINS of Scott  
MAY 2, 1977 (*p. 1779*) CONLON of Muscatine  
BRANSTAD of Winnebago

*This is the final copy*

*See previous  
Bill for 500-116*

HOUSE FILE 248

By COMMITTEE ON HUMAN RESOURCES

(As Amended and Passed by the House)

Passed House, <sup>as passed</sup> Date 3-14-78 (p. 982) Passed Senate, Date 2-1-78 (p. 212)  
Vote: Ayes 67 Nays 25 Vote: Ayes 42 Nays 8  
Approved July 3 1978  
*motion to reconsider (p. 212) w/d 2/5/78*

# A BILL FOR

1 An Act relating to a complete revision of the juvenile  
2 justice laws and subjecting persons to existing  
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5  
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*Conference Committee appointed*

*Rep. Keith, chair; Anderson, Jochims, Lundstrom, Brandstad (p. 1492)  
Sen. Jochims, DeLoren, O'Neil, Heide, B. L. Hanning*

\*Corrected Reprint

*Passed by Conference Committee Report*

*House 5-18-78 (p. 2745) Senate 6-12-78 (p. 1492)  
72-1 25-1*

1 DIVISION I

2 Section 1. NEW SECTION. RULES OF CONSTRUCTION. This  
3 chapter shall be liberally construed to the end that each  
4 child under the jurisdiction of the court shall receive,  
5 preferably in his or her own home, the care, guidance and  
6 control that will best serve the child's welfare and the best  
7 interest of the state when a child is removed from the control  
8 of his or her parents, the court shall secure for the child  
9 care as nearly as possible equivalent to that which should  
10 have been given by the parents.

11 Sec. 2. NEW SECTION. WAIVERABILITY OF PROCEDURAL  
12 REQUIREMENTS. Unless otherwise provided, and to the extent  
13 permitted by constitution and statute, the procedural  
14 requirements of this chapter are waivable. Before allowing  
15 a waiver of any hearing provided for in this chapter, the  
16 court shall inquire of all parties to determine that their  
17 respective waivers are knowing and voluntary.

18 DEFINITIONS

19 Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act  
20 unless the context otherwise requires:

21 1. "Abandonment of a child" means the permanent  
22 relinquishment or surrender, without reference to any  
23 particular person, of the parental rights, duties, or  
24 privileges inherent in the parent-child relationship. Proof  
25 of abandonment must include both the intention to abandon  
26 and the acts by which the intention is carried out. The term  
27 does not require that the relinquishment or surrender be over  
28 any particular period of time. Abandonment includes, but  
29 does not require, willful and unreasonable delay by a parent,  
30 guardian, or custodian in taking custody of a child who has  
31 been taken into custody under section nine (9), subsection  
32 one (1), paragraph c, of this Act, or placed in shelter care  
33 under section ten (10), subsection one (1), paragraph c, of  
34 this Act.

35 2. "Adjudicatory hearing" means a hearing to determine

1 if the allegations of a petition are true.

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

3 4. "Child" means:

4 a. An unmarried person under eighteen years of age; or

5 5. "Child in need of assistance" means a child:

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

8 b. Whose parent, guardian or custodian has physically  
9 abused or neglected the child or is imminently likely to abuse  
10 or neglect the child and thereby causes or creates a  
11 substantial risk of death, disfigurement, or impairment of  
12 bodily functions.

13 c. Who has suffered harmful effects as a result of:

14 (1) Conditions created by the child's parent, guardian  
15 or custodian; or

16 (2) The failure of the child's parent, guardian, or  
17 custodian to exercise a minimal degree of care in supervising  
18 the child.

19 d. Who has been sexually abused by his or her parent,  
20 guardian, custodian or other member of the household in which  
21 the child resides.

22 e. Who is in need of medical treatment to cure, alleviate,  
23 or prevent his or her suffering, serious physical injury,  
24 or illness and whose parent, guardian, or custodian is  
25 unwilling to provide such treatment although financially able  
26 to do so or has available other means to provide treatment.

27 f. Who is in need of treatment to cure or alleviate serious  
28 mental illness or disorder or emotional damage as evidenced  
29 by severe anxiety, depression, withdrawal or untoward  
30 aggressive behavior toward self or others and whose parent,  
31 guardian, or custodian is unwilling to provide such treatment  
32 although financially able to do so or has available other  
33 means to provide treatment.

34 g. Whose parent, guardian, or custodian fails to exercise  
35 a minimal degree of care in supplying the child with adequate

1 food, clothing or shelter though financially able to do so  
2 or has available other means to provide treatment.

3 h. Who has committed a delinquent act as a result of  
4 pressure, guidance, or approval from a parent, guardian, or  
5 custodian.

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

12 6. "Commissioner" means the commissioner of the department  
13 of social services or that person's designee.

14 7. "Complaint" means a verbal or written report which  
15 is made to the juvenile court by any person and alleges that  
16 a child is within the jurisdiction of the court.

17 8. "Court" means the juvenile court established in chapter  
18 two hundred thirty-one (231) of the Code.

19 9. "Criminal justice agency" means any agency which has  
20 as its primary responsibility the enforcement of the state's  
21 criminal laws or of local ordinances made pursuant to state  
22 law.

23 10. "Custodian" means a step-parent or a relative within  
24 the fourth degree of consanguinity to a minor child who has  
25 assumed responsibility for that child, a person who has  
26 accepted a release of custody pursuant to division four (IV),  
27 or a person appointed by a court or juvenile court having  
28 jurisdiction over a child. The rights and duties of a  
29 custodian with respect to a child shall be as follows:

30 a. To maintain or transfer to another the physical  
31 possession of that child.

32 b. To protect, train, and discipline that child.

33 c. To provide food, clothing, housing, and medical care  
34 for that child.

35 d. To consent to emergency medical care, including surgery.

1 e. To sign a release of medical information to a health  
2 professional.

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

6 11. "Delinquent act" means:

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

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

15 12. "Delinquent child" means a child who has been  
16 adjudicated to have committed a delinquent act.

17 13. "Department" means the department of social services  
18 and includes the local, county and regional officers of the  
19 department.

20 14. "Detention" means the temporary care of a child in  
21 a physically restricting facility designed to insure the  
22 continued custody of the child at any point between the child's  
23 initial contact with the juvenile authorities and the final  
24 disposition of his or her case.

25 15. "Detention hearing" means a hearing at which the court  
26 determines whether it is necessary to place or retain a child  
27 in detention.

28 16. "Dismissal of complaint" means the termination of  
29 all proceedings against a child.

30 17. "Dispositional hearing" means a hearing held after  
31 an adjudication to determine what dispositional order should  
32 be made.

33 18. "Family in need of assistance" means a family in which  
34 there has been a breakdown in the relationship between a child  
35 and his or her parent, guardian or custodian.

1 19. "Guardian" means a person who is not the parent of  
2 a minor child, but who has been appointed by a court or  
3 juvenile court having jurisdiction over the minor child, to  
4 make important decisions which have a permanent effect on  
5 the life and development of that child and to promote the  
6 general welfare of that child. A guardian may be a court  
7 or a juvenile court. Guardian does not mean conservator,  
8 as defined in section six hundred thirty-three point three  
9 (633.3) of the Code, although a person who is appointed to  
10 be a guardian may also be appointed to be a conservator.

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

15 a. To consent to marriage, enlistment in the armed forces  
16 of the United States, or medical, psychiatric, or surgical  
17 treatment.

18 b. To serve as guardian ad litem, unless the interests  
19 of the guardian conflict with the interests of the minor child  
20 or unless another person has been appointed guardian ad litem.

21 c. To serve as custodian, unless another person has been  
22 appointed custodian.

23 d. To make periodic visitations if the guardian does not  
24 have physical possession or custody of the minor child.

25 e. To consent to adoption and to make any other decision  
26 that the parents could have made when the parent-child  
27 relationship existed.

28 20. "Guardian ad litem" means a person appointed by the  
29 court to represent the interests of the child in any judicial  
30 proceeding to which the child is a party.

31 21. "Health practitioner" means a licensed physician or  
32 surgeon, osteopath, osteopathic physician or surgeon, dentist,  
33 optometrist, podiatrist or chiropractor, a resident or intern  
34 of any such profession, and any registered nurse or licensed  
35 practical nurse.

1 22. "Informal adjustment" means the disposition of a  
2 complaint without the filing of a petition and may include  
3 but is not limited to the following:

- 4 a. Placement of the child on nonjudicial probation.
- 5 b. Provision of intake services.
- 6 c. Referral of the child to a public or private agency  
7 other than the court for services.

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

12 24. "Intake" means the preliminary screening of complaints  
13 to determine whether the court should take some action and  
14 if so, what action.

15 25. "Intake officer" means a juvenile probation officer  
16 authorized by the court to perform the intake function.

17 26. "Judge" means the judge of a juvenile court.

18 27. "Juvenile court social records" or "social records"  
19 means all records made with respect to a child in connection  
20 with proceedings over which the court has jurisdiction under  
21 this Act other than official records and includes but is not  
22 limited to the records made and compiled by intake officers,  
23 predisposition reports, and reports of physical and mental  
24 examinations.

25 28. "Juvenile detention home" means a physically  
26 restricting facility used only for the detention of children.

27 29. "Juvenile parole officer" means a person representing  
28 an agency which retains jurisdiction over the case of a child  
29 adjudicated delinquent, placed in secure facility and  
30 subsequently released, who supervises the activities of the  
31 child until the case is dismissed.

32 30. "Juvenile probation officer" or "probation officer"  
33 means a person appointed as a juvenile probation officer under  
34 section two hundred thirty-one point eight (231.8) of the  
35 Code.

1 31. "Juvenile shelter care home" means a physically  
2 unrestricting facility used only for the shelter care of  
3 children.

4 32. "Nonjudicial probation" means the informal adjustment  
5 of a complaint which involves the supervision of the child  
6 who is the subject of the complaint by an intake officer or  
7 probation officer for a period during which the child may  
8 be required to comply with specified conditions concerning  
9 his or her conduct and activities.

10 33. "Nonsecure facility" means a physically unrestricting  
11 facility in which children adjudicated delinquent may be  
12 placed pursuant to a dispositional order of the court.

13 34. "Official juvenile court records" or "official records"  
14 means official records of the court of proceedings over which  
15 the court has jurisdiction under this Act which includes but  
16 is not limited to the following:

17 a. The docket of the court and entries therein.

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

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

22 d. Transcripts of proceedings before the court.

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

24 35. "Parent" means a natural or adoptive mother or father  
25 of a child but does not include a mother or father whose  
26 parental rights have been terminated.

27 36. "Peace officer" means a law enforcement officer or  
28 a person designated as a peace officer by a provision of the  
29 Code.

30 37. "Petition" means a pleading the filing of which  
31 initiates formal judicial proceedings in the juvenile court.

32 38. "Physical abuse or neglect" or "abuse or neglect"  
33 means any non-accidental physical injury suffered by a child  
34 as the result of the acts or omissions of the child's parent,  
35 guardian or custodian or other person legally responsible

1 for the child.

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

6 40. "Predisposition report" is a report furnished to the  
7 court which contains the information collected during a  
8 predisposition investigation.

9 41. "Probation" means a legal status which is created  
10 by a dispositional order of the court in a case where a child  
11 has been adjudicated delinquent, which exists for a specified  
12 period of time, and which places the child under the  
13 supervision of a juvenile probation officer or other person  
14 or agency designated by the court. The probation order may  
15 require a child to comply with specified conditions imposed  
16 by the court concerning conduct and activities, subject to  
17 being returned to the court for violation of those conditions.

18 42. "Provision of intake services" means the informal  
19 adjustment of a complaint which involves the provision of  
20 services by an intake officer to a child who is the subject  
21 of a complaint on a continuing basis for a specified period  
22 of time.

23 43. "Registry" means the central registry for child abuse  
24 information as established under chapter two hundred thirty-  
25 five A (235A) of the Code.

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

32 45. "Secure facility" means a physically restricting  
33 facility in which children adjudicated delinquent may be  
34 placed pursuant to a dispositional order of the court.

35 46. "Sexual abuse" means the commission of a sex offense

1 as defined by the penal law.

2 47. "Shelter care" means the temporary care of a child  
3 in a physically unrestricting facility at any time between  
4 a child's initial contact with juvenile authorities and the  
5 final judicial disposition of his or her case.

6 48. "Shelter care hearing" means a hearing at which the  
7 court determines whether it is necessary to place or retain  
8 a child in shelter care.

9 49. "Social investigation" means an investigation conducted  
10 for the purpose of collecting information relevant to the  
11 court's fashioning of an appropriate disposition of a child  
12 in need of assistance case over which the court has  
13 jurisdiction.

14 50. "Social report" means a report furnished to the court  
15 which contains the information collected during a social  
16 investigation.

17 51. "Taking into custody" means an act which would be  
18 governed by the laws of arrest under the criminal code if  
19 the subject of the act were an adult.

20 52. "Termination hearing" means a hearing held to determine  
21 whether the court should terminate a parent-child relationship.

22 53. "Termination of the parent-child relationship" means  
23 the mutual divestment of the parent and child of privileges,  
24 duties and powers with respect to each other.

25 54. "Waiver hearing" means a hearing at which the court  
26 determines whether it shall waive its jurisdiction over a  
27 child alleged to be delinquent so that the state may prosecute  
28 the child as if the child were an adult.

29 DIVISION II

30 JUVENILE DELINQUENCY PROCEEDINGS

31 PART 1

32 GENERAL PROVISIONS

33 Sec. 4. NEW SECTION. JURISDICTION.

34 1. The juvenile court shall have exclusive original  
35 jurisdiction in proceedings concerning any child who is alleged

1 to be a delinquent unless otherwise provided by law, and shall  
2 have exclusive original jurisdiction in proceedings concerning  
3 an adult who is alleged to have committed a delinquent act  
4 prior to having become an adult, provided that the taking  
5 of that person into custody for the alleged act or the filing  
6 of a delinquency petition alleging the commission of the act  
7 does not occur

8 (1) More than one year after the alleged commission of  
9 an act which would be a simple misdemeanor if committed by  
10 an adult; or

11 (2) More than two years after the alleged commission of  
12 an act which would be an offense other than a simple  
13 misdemeanor if committed by an adult.

14 Violations by a child of provisions of chapters one hundred  
15 six (106), one hundred twenty-three (123), three hundred  
16 twenty-one (321), or three hundred twenty-one G (321G) of  
17 the Code which would be simple misdemeanors if committed by  
18 an adult, violations of county or municipal curfew ordinances,  
19 and violations by a child of the provisions of section one  
20 hundred twenty-three point forty-seven (123.47) of the Code,  
21 are excluded from the jurisdiction of the juvenile court and  
22 shall be prosecuted as nonindictable misdemeanors as provided  
23 by law.

24 2. In determining jurisdiction, the marital status of the child  
25 at the time a petition is filed under section fifteen (15) of this  
26 Act is controlling.

27 3. A case involving a person charged in a court other  
28 than the juvenile court with the commission of a public offense  
29 not exempted by law from the jurisdiction of the juvenile  
30 court and who is within the provisions of subsection one (1)  
31 of this section shall immediately be transferred to the  
32 juvenile court. The transferring court shall order a transfer  
33 and shall forward the transfer order together with all papers,  
34 documents and a transcript of all testimony filed or admitted  
35 into evidence in connection with the case to the clerk of

1 the juvenile court. The jurisdiction of the juvenile court  
2 shall attach immediately upon the signing of an order of  
3 transfer. From the time of transfer the custody, shelter  
4 care and detention of the person alleged to be or to have  
5 been a delinquent child shall be in accordance with the  
6 provisions of this Act and the case shall be processed in  
7 accordance with the provisions of this Act.

8 3. The juvenile court, after a hearing and in accordance  
9 with the provisions of section twenty-four (24) of this Act,  
10 may waive jurisdiction of a child alleged to have committed  
11 a public offense so that the child may be prosecuted as an  
12 adult for such offense in another court. The juvenile court  
13 shall waive jurisdiction upon motion by the child. If the  
14 child pleads guilty or is found guilty of a public offense  
15 in another court of this state that court may, with the consent  
16 of the child, defer judgment and without regard to restrictions  
17 placed upon deferred judgments for adults, place the child  
18 on probation for a period not less than one year upon such  
19 conditions as it may require. Upon fulfillment of the  
20 conditions of probation the child shall be discharged without  
21 entry of judgment.

22 4. Nothing in this Act shall be interpreted as affecting  
23 the statutory limitations on prosecutions for murder in the  
24 first or second degree.

25 Sec. 5. NEW SECTION. VENUE.

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

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

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

1        b. With the consent of the receiving court the court may  
2 transfer the case to the court of the county where the minor  
3 is found.

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

6        3. The court shall transfer the case by ordering the  
7 transfer and a continuance and by forwarding to the clerk  
8 of the receiving court a certified copy of all papers filed  
9 together with an order of transfer. The judge of the receiving  
10 court may accept the filings of the transferring court or  
11 may direct the filing of a new petition and hear the case  
12 anew.

13        Sec. 6. NEW SECTION. RIGHT TO ASSISTANCE OF COUNSEL.

14        1. A child shall have the right to be represented by  
15 counsel at every stage of the proceedings under division two  
16 (II) of this Act, including:

17        a. At the intake stage prior to and during any questioning  
18 at an interview and in connection with any discussion regarding  
19 an informal adjustment agreement.

20        b. A detention or shelter care hearing as required by  
21 section twenty-three (23) of this Act.

22        c. A waiver hearing as required by section twenty-four  
23 (24) of this Act.

24        d. An adjudicatory hearing required by section twenty-  
25 six (26) of this Act.

26        e. A dispositional hearing as required by section thirty-  
27 nine (29) of this Act.

28        f. Hearings to review and modify a dispositional order  
29 as required by section thirty-three (33) of this Act.

30        2. The child's right to be represented by counsel under  
31 subsection one (1), paragraphs b through f of this section  
32 shall not be waived by a child of any age. The child's right  
33 to be represented by counsel under paragraph a of subsection  
34 one (1) of this section shall not be waived if the child is  
35 less than fourteen years of age except when the child is

1 alleged to have committed an offense for which the informal  
2 adjustment demanded of the child is monetary restitution of  
3 up to two hundred dollars, which may include damages other  
4 than special damages in an amount not more than fifty dollars.

5 3. If the child is not represented by counsel as required  
6 under subsection one (1) of this section, counsel shall be  
7 provided as follows:

8 a. If the court determines, after giving the child's  
9 parent, guardian or custodian an opportunity to be heard,  
10 that such person has the ability in whole or in part to pay  
11 for the employment of counsel, it shall either order that  
12 person to retain an attorney to represent the child or shall  
13 appoint counsel for the child and order the parent, guardian  
14 or custodian to pay for that counsel as provided in subsection  
15 five (5) of this section.

16 b. If the court determines that the parent, guardian or  
17 custodian cannot pay any part of the expenses of counsel to  
18 represent the child, it shall appoint such counsel, who shall  
19 be reimbursed according to the provisions of section seventy-  
20 three (73), subsection one (1), paragraph d, of this Act.

21 4. If the child is represented by counsel and the court  
22 determines that there is a conflict of interest between the  
23 child and his or her parent, guardian or custodian and that  
24 the retained counsel could not properly represent the child  
25 as a result of the conflict, the court shall appoint other  
26 counsel to represent the child and order the parent, guardian  
27 or custodian to pay for such counsel as provided in subsection  
28 five (5) of this section.

29 5. If the court determines, after an inquiry which includes  
30 notice and reasonable opportunity to be heard that the parent,  
31 guardian or custodian has the ability to pay in whole or in  
32 part for the attorney appointed for the child, the court may  
33 order that person to pay such sums as the court finds  
34 appropriate in the manner and to whom the court directs.  
35 If the person so ordered fails to comply with the order without

1 good reason, the court shall enter judgment against him or  
2 her.

3 Sec. 7. NEW SECTION. DUTIES OF COUNTY ATTORNEY. Upon  
4 the filing of a petition the county attorney shall represent  
5 the state in all adversary proceedings arising under this  
6 division and shall present evidence in support of the petition.

7 Sec. 8. NEW SECTION. SUSPENSION OF TIME LIMITATIONS.  
8 Where the child requests a continuance of delinquency  
9 proceedings, the court, in an order granting the continuance,  
10 may suspend the time limitations imposed on the state by this  
11 division for a period of time not to exceed the length of  
12 the continuance.

13 PART 2

14 TAKING A CHILD INTO CUSTODY; DETENTION AND SHELTER CARE

15 Sec. 9. NEW SECTION. TAKING A CHILD INTO CUSTODY.

16 1. A child may be taken into custody:

17 a. By order of the court.

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

20 c. By a peace officer when he or she has reasonable grounds  
21 to believe the child has run away from his or her parents,  
22 guardian or other custodian.

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

27 2. When a child is taken into custody as provided in  
28 subsection one (1) of this section the person taking the child  
29 into custody shall notify the child's parent, guardian or  
30 custodian as soon as possible and shall not physically restrain  
31 such child unless the child physically resists or threatens  
32 physical violence when being taken into custody. Unless the  
33 child is placed in shelter care or detention in accordance  
34 with the provisions of section ten (10) of this Act, the child  
35 shall be released to the child's parent, guardian, custodian,

1 responsible adult relative or other adult approved by the  
2 court upon the promise of such person to produce the child  
3 in court at such time as the court may direct.

4 Sec. 10. NEW SECTION. GROUNDS FOR PLACEMENT IN SHELTER  
5 CARE OR DETENTION.

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

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

11 b. The child desires to be placed or remain in shelter  
12 care.

13 c. It is necessary to hold the child until his or her  
14 parent, guardian or custodian has been contacted and has taken  
15 custody of the child.

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

18 2. No child shall be placed or retained in detention  
19 unless:

20 a. The child is being held under warrant for another  
21 jurisdiction; or

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

24 c. There is probable cause to believe that the child has  
25 violated conditions of release imposed under section thirty-  
26 three (33) of this Act and there is a substantial probability  
27 that the child will run away or be otherwise unavailable for  
28 subsequent court appearance; or

29 d. There is probable cause to believe the child has  
30 committed a delinquent act and:

31 (1) There is a substantial probability that the child  
32 will run away or be otherwise unavailable for subsequent court  
33 appearance; or,

34 (2) There is a serious risk that the child if released  
35 may commit an act which would inflict serious bodily harm

1 on himself or herself or on another.

2 3. The grounds for placement of a child in shelter care  
3 or detention specified in subsections one (1) and two (2)  
4 of this section shall govern the placement or retention of  
5 the child in shelter care or detention.

6 Sec. 11. NEW SECTION. ADMISSION OF CHILD TO SHELTER CARE  
7 OR DETENTION.

8 1. If a child is taken into custody and not released as  
9 provided in section nine (9), subsection two (2), of this  
10 Act, the child shall immediately be taken to a detention or  
11 shelter care facility as specified in section twelve (12)  
12 of this Act.

13 2. When a child is admitted to a detention or shelter  
14 care facility the person in charge of the facility or his  
15 or her designated representative shall notify the court, the  
16 child's attorney and the child's parent, guardian, or custodian  
17 as soon as possible of the admission and the reasons for that  
18 admission.

19 3. No child shall be detained in a facility intended or  
20 used for the detention of adults for a period in excess of  
21 twelve hours without a court order authorizing such detention.  
22 No child shall be detained in a juvenile detention facility  
23 or other suitable place designated by the court for the  
24 detention of a child as specified in section twelve (12) of  
25 this Act for a period in excess of twenty-four hours without  
26 a court order authorizing such detention. No child shall  
27 be held in a shelter care facility or other suitable place  
28 designated by the court for the shelter care of a child as  
29 specified in section twelve (12) of this Act for a period  
30 in excess of forty-eight hours without a court order  
31 authorizing such shelter care.

32 4. The court shall hold a hearing concerning the continued  
33 retention of a child in shelter care or detention in accordance  
34 with the provisions of section twenty-three (23) of this Act.

35 Sec. 12. NEW SECTION. SHELTER CARE AND DETENTION--WHERE.

1 1. A child may be placed in shelter care as provided in  
2 section ten (10), subsection one (1), of this Act only in  
3 one of the following facilities:

- 4 a. A juvenile shelter care home.
- 5 b. A licensed foster home.
- 6 c. An institution or other facility operated by the  
7 department of social services, or one which is licensed or  
8 otherwise authorized by law to receive and provide care for  
9 the child.

10 d. Any other suitable place designated by the court  
11 provided that no place used for the detention of a child may  
12 be so designated.

13 2. A child may be detained as provided in section ten  
14 (10), subsection two (2), of this Act only in one of the  
15 following:

- 16 a. A juvenile detention home.
- 17 b. Any other suitable place designated by the court.
- 18 c. A room in a facility intended or used for the detention  
19 of adults upon the written order of a judge or magistrate  
20 or for a period of up to twelve hours without such an order  
21 if:

22 (1) The child is at least fourteen years or older; and

23 (2) The child has shown by his or her conduct, habits,  
24 or condition that he or she constitutes an immediate and  
25 extreme danger to himself or herself or the public, and a  
26 facility or place enumerated in subsections a or b of this  
27 section is unavailable or the court determines that the child's  
28 conduct or condition endangers the safety of others in the  
29 facility; and

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

32 (4) The child is confined in a room entirely separated  
33 from confined adults.

34 d. A place used for the detention of children prior to  
35 an adjudicatory hearing may also be used for the detention

1 of children while the adjudicated child is awaiting transfer  
2 to the disposition placement.

3 PART 3

4 INTAKE

5 Sec. 13. NEW SECTION. INTAKE.

6 1. Any person having knowledge of the facts may file a  
7 complaint with the court alleging a child to be a delinquent.

8 2. The court shall refer the complaint to an intake officer  
9 who shall conduct a preliminary inquiry to determine what  
10 action should be taken.

11 3. The intake officer, after consultation with the county  
12 attorney when necessary, shall determine whether the complaint  
13 is legally sufficient for the filing of a petition. A  
14 complaint shall be deemed legally sufficient for the filing  
15 of a petition if the facts as alleged are sufficient to  
16 establish the jurisdiction of the court and probable cause  
17 to believe that the child is a delinquent. If the intake  
18 officer determines that the complaint is legally sufficient  
19 to support the filing of a petition, the officer shall  
20 determine whether the interests of the child and the public  
21 will best be served by the dismissal of the complaint, the  
22 informal adjustment of the complaint, or the filing of a  
23 petition.

24 4. In the course of a preliminary inquiry, the intake  
25 officer may:

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

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

30 c. Hold conferences with the child and his or her parent  
31 or parents, guardian or custodian for the purpose of  
32 interviewing them and discussing the disposition of the  
33 complaint in accordance with the requirements set forth in  
34 subsection eight (8) of this section.

35 d. Examine any physical evidence pertinent to the

1 complaint.

2 e. Interview such persons as are necessary to determine  
3 whether the filing of a petition would be in the best interests  
4 of the child and the community as provided in section sixteen  
5 (16), subsections two (2) and three (3) of this Act.

6 5. Any additional inquiries may be made only with the  
7 consent of the child and his or her parent or parents, guardian  
8 or custodian.

9 6. Participation of the child and his or her parent or  
10 parents, guardian or custodian in a conference with an intake  
11 officer shall be voluntary, and they shall have the right  
12 to refuse to participate in such conference. At such  
13 conference the child shall have the right to the assistance  
14 of counsel and the right to remain silent when questioned  
15 by the intake officer.

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

21 8. If the intake officer determines that the complaint  
22 is legally sufficient for the filing of a petition and that  
23 an informal adjustment of the complaint is in the best  
24 interests of the child and the community, the officer may  
25 make an informal adjustment of the complaint in accordance  
26 with section fifteen (15) of this Act.

27 9. If the intake officer determines that the complaint  
28 is legally sufficient for the filing of a petition and that  
29 the filing of a petition is in the best interests of the  
30 juvenile and the public, the officer may request the county  
31 attorney to file a petition in accordance with section sixteen  
32 (16) of this Act.

33 Sec. 14. NEW SECTION. INFORMAL ADJUSTMENT.

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

1 conditions:

2 a. The child has admitted his or her involvement in a  
3 delinquent act.

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

8 c. Any informal adjustment agreement shall be entered  
9 into voluntarily and intelligently by the child with the  
10 advice of his or her attorney, or by the child with the consent  
11 of a parent, guardian, or custodian if the child is not  
12 represented by counsel.

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

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

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

25 g. The child and his or her parent, guardian or custodian  
26 shall have the right to terminate such agreement at any time  
27 and to request the filing of a petition and a formal  
28 adjudication.

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

1 by the court.

2 1. The person performing the duties of intake officer  
3 shall file a report at least every six months with the court  
4 listing the number of informal adjustments made during the  
5 reporting time, the conditions imposed in each case, the  
6 number of informal adjustments resulting in dismissal without  
7 the filing of a petition, and the number of informal  
8 adjustments resulting in the filing of a petition upon the  
9 original complaint.

10 PART 4

11 JUDICIAL PROCEEDINGS

12 Sec. 15. NEW SECTION. FILING OF PETITION.

13 1. A formal judicial proceeding to determine whether a  
14 child is a delinquent under this Act shall be initiated by  
15 the filing by the county attorney of a petition alleging a  
16 child to be delinquent.

17 2. If the intake officer determines that a complaint is  
18 legally sufficient for the filing of a petition alleging a  
19 child to be delinquent and that the filing of a petition would  
20 be in the best interests of the child and the community, the  
21 officer shall submit a written request for the filing of a  
22 petition to the county attorney. The county attorney may  
23 grant or deny the request of the intake officer for the filing  
24 of a petition. A determination by the county attorney that  
25 a petition should not be filed shall be final.

26 3. If the intake officer determines that a complaint is  
27 not legally sufficient for the filing of a petition or that  
28 the filing of a petition would not be in the best interests  
29 of the child and the community, the officer shall notify the  
30 complainant of his or her determination and the reasons for  
31 such determination, and shall advise the complainant that  
32 he or she may submit the complaint to the county attorney  
33 for review. Upon receiving a request for review, the county  
34 attorney shall consider the facts presented by the complainant,  
35 consult with the intake officer and make the final

1 determination as to whether a petition should be filed. In  
2 the absence of a request by the complainant for a review of  
3 the intake officer's determination that a petition should  
4 not be filed, the officer's determination shall be final.

5 Sec. 16. NEW SECTION. CONTENTS OF PETITION.

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

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

10 3. The petition shall set forth plainly:

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

13 b. The names and residences of any:

14 (1) Living parent of the child.

15 (2) Guardian of the child.

16 (3) Legal custodian of the child.

17 (4) Guardian ad litem.

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

21 4. If any of the facts required under subsection three  
22 (3), paragraphs a and b of this section are not known by the  
23 petitioner, the petition shall so state.

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

26 Sec. 17. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND  
27 SERVICE.

28 1. After a petition has been filed and unless the parties  
29 named in subsection two (2) of this section voluntarily appear,  
30 the court shall set a time for an adjudicatory hearing and  
31 shall issue a summons requiring the child to appear before  
32 the court at a time and place stated and requiring the person  
33 who has custody or control of the child to appear before the  
34 court and to bring the child with him or her at that time.  
35 The summons shall attach a copy of the petition and shall

1 give notification of the right to counsel provided for in  
2 section five (5) of this Act.

3 2. The court shall have notice of the pendency of the  
4 case served upon the known parent, guardian or legal custodian  
5 of a child if this person is not summoned to appear as provided  
6 in subsection one (1) of this section. The court shall also  
7 have notice served upon the child and upon the child's guardian  
8 ad litem, if any. The notice shall attach a copy of the  
9 petition and shall give notification of the right to counsel  
10 provided for in section five (5) of this Act.

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

17 4. Service of summons or notice shall be made personally  
18 by the delivery of a copy thereof to the person being served.  
19 If the court determines that personal service of a summons  
20 or notice is impracticable, the court may order service by  
21 certified mail addressed to the last known address or by  
22 publication or both. Service of summons or notice shall be  
23 made not less than five days before the time fixed for hearing.  
24 Service of summons, notice, subpoenas or other process, after  
25 an initial valid summons or notice, shall be made in accordance  
26 with the rules of the court governing such service in civil  
27 actions.

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

34 6. The court may issue an order for the removal of the  
35 child from the custody of his or her parent, guardian or

1 custodian when there exists an immediate threat that the  
2 parent, guardian or custodian will flee the state with the  
3 child, or when it appears that the child's immediate removal  
4 ~~is necessary to avoid imminent danger to the child's life~~  
5 or health.

6 Sec. 18. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS.

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

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

22 Sec. 19. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS.

23 The court shall exclude the general public from hearings and  
24 proceedings under this division. The court shall admit the  
25 news media except in those cases in which, in the opinion  
26 of the court, the best interests of the child and the public  
27 are served by a private hearing, and the court shall admit  
28 in its discretion those persons who have a direct interest  
29 in the case or the work of the court.

30 Sec. 20. NEW SECTION. OTHER ISSUES ADJUDICATED. When

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

1 properly sought and pleaded.

2 Sec. 21. NEW SECTION. REPORTER REQUIRED. Stenographic  
3 notes or mechanical or electronic recordings shall be taken  
4 of all court hearings held pursuant to this division unless  
5 waived by the parties. The child shall not be competent to  
6 waive the reporting requirement, but waiver may be made for  
7 the child by the child's counsel or guardian ad litem. Matters  
8 which must be reported under the provisions of this section  
9 shall be the same as those required in section six hundred  
10 twenty-four point nine (624.9) of the Code.

11 Sec. 22. NEW SECTION. ANSWER--PLEA AGREEMENT--ACCEPTANCE  
12 OF PLEA ADMITTING ALLEGATIONS OF PETITION.

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

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

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

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

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

1 court accepts the plea.

2 c. The defendant has the right to deny the allegations  
3 of the petition.

4 d. If the defendant admits the allegations of the petition  
5 defendant waives the right to a further adjudicatory hearing.

6 4. The court shall not accept a plea admitting the  
7 allegations of the petition without first addressing the  
8 county attorney and the child's counsel in court and making  
9 an inquiry into whether such a plea is the result of a plea  
10 agreement. The court shall require the disclosure of the  
11 terms of any such agreement in court. If a plea agreement  
12 has been reached which contemplates entry of the plea in the  
13 expectation that the court will order a specific disposition  
14 or dismiss other charges against the child before the court,  
15 the court shall indicate to the parties whether the court  
16 will concur in the proposed disposition or dismissal of  
17 charges. If the court will not concur in such disposition  
18 or dismissal, the court should advise the child personally  
19 of this fact, advise the child that the disposition of the  
20 case may be less favorable to the child than that contemplated  
21 by the plea agreement, and afford the child the opportunity  
22 to withdraw the plea. If the court defers decision as to  
23 whether the court will concur with the proposed disposition  
24 or dismissal until there has been an opportunity to consider  
25 the predisposition report, the court shall advise the child  
26 that the court is not bound by the plea agreement and afford  
27 the child the opportunity to withdraw the plea.

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

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

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

33 c. Inquiring of the parent or parents who are present  
34 in court whether they agree as to the course of action that  
35 their child has chosen. If either parent expresses

1 disagreement with the plea, the court may refuse to accept  
2 that plea.

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

6 Sec. 23. NEW SECTION. DETENTION OR SHELTER CARE HEARING-  
7 -RELEASE FROM DETENTION UPON CHANGE OF CIRCUMSTANCE.

8 1. A hearing shall be held within forty-eight hours,  
9 excluding Saturdays, Sundays and legal holidays, of the time  
10 of the child's admission to a detention or shelter care  
11 facility. If the hearing is not held within the time  
12 specified, the child shall be released from shelter care or  
13 detention. Prior to the hearing a petition shall be filed,  
14 except where the child is already under the supervision of  
15 a juvenile court under a prior judgment.

16 2. The county attorney or a juvenile probation officer  
17 may apply for a hearing at any time after the petition is  
18 filed to determine whether the child who is the subject of  
19 the petition should be placed in detention or shelter care.  
20 The court may upon the application or upon its own motion  
21 order such hearing.

22 3. A notice stating the time, place, and purpose of the  
23 hearing shall be served personally upon the child, the child's  
24 attorney, the child's guardian ad litem if any, and the child's  
25 known parent, guardian or custodian not less than twenty-four  
26 hours before the time the hearing is scheduled to begin.  
27 If the court finds that there has been reasonably diligent  
28 effort to give notice to a parent, guardian or custodian and  
29 that the effort has been unavailing, the hearing may proceed  
30 without such notice having been served.

31 4. At the hearing the court shall admit only testimony  
32 and other evidence relevant to the determination of whether  
33 there is probable cause to believe the child has committed  
34 the act as alleged in the petition and to the determination  
35 of whether the placement of the child in detention or shelter

1 care is authorized under section ten (10) of this Act. Any  
2 written reports or records made available to the court at  
3 the hearing shall be made available to the parties. A copy  
4 of the petition shall be given to each of the parties at or  
5 before the hearing.

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

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

12 b. If the court finds that detention or shelter care is  
13 not authorized under section ten (10) of this Act, or is  
14 authorized but not warranted in a particular case, the court  
15 shall order the child's release, and in so doing, may impose  
16 one or more of the following conditions:

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

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

23 (3) Impose any other condition deemed reasonably necessary  
24 and consistent with the grounds for detaining children  
25 specified in section ten (10) of this Act, including a  
26 condition requiring that the child return to custody as  
27 required.

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

34 6. If the court finds that there is probable cause to  
35 believe that the child is within the jurisdiction of the court

1 under this Act and that full-time detention or shelter care  
2 is authorized under section ten (10) of this Act, it may issue  
3 an order authorizing either shelter care or detention until  
4 the adjudicatory hearing is held or for a period not exceeding  
5 seven days whichever is shorter.

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

16 8. A child held in a detention or shelter care facility  
17 under order of court after a hearing may be released upon  
18 a showing that a change of circumstances makes continued  
19 detention unnecessary.

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

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

33 Sec. 24. NEW SECTION. WAIVER HEARING AND WAIVER OF  
34 JURISDICTION.

35 1. After the filing of a petition that alleges a child

1 to be delinquent on the basis of an alleged commission of  
2 a public offense and before an adjudicatory hearing on the  
3 merits of the petition is held, the county attorney may file  
4 a motion requesting the court to waive its jurisdiction over  
5 the child so that the child may be prosecuted as an adult  
6 for such violation.

7 2. The court shall hold a waiver hearing without a jury  
8 on all such motions.

9 3. A notice that states the time, place, and purpose of  
10 the waiver hearing shall be issued and served in the same  
11 manner as for adjudicatory hearings as provided in section  
12 eighteen (18) of this Act. Summons, subpoenas and other  
13 process may be issued and served in the same manner as for  
14 adjudicatory hearings as provided in section eighteen (18)  
15 of this Act.

16 4. Prior to the waiver hearing, the juvenile probation  
17 officer or other person or agency designated by the court  
18 shall conduct an investigation for the purpose of collecting  
19 information relevant to the court's decision to waive its  
20 jurisdiction over the child and shall submit a report  
21 concerning such investigation to the court. Prior to the  
22 hearing the court shall provide the child's counsel and the  
23 county attorney with access to the report and to all written  
24 material to be considered by the court.

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

27 6. At the conclusion of the waiver hearing the court may  
28 waive its jurisdiction over the child if:

29 a. The child is fourteen years of age or older; and

30 b. The court determines, or has previously determined  
31 in a detention hearing under section twenty-three (23) of  
32 this Act, that there is probable cause to believe that the  
33 child has committed a delinquent act which would constitute  
34 a public offense; and

35 c. The court determines that the state has established

1 that there are not reasonable prospects for rehabilitating  
2 the child in the event the juvenile court retains jurisdiction  
3 over the child and the child is adjudicated delinquent, and  
4 that waiver of the court's jurisdiction would be in the best  
5 interest of the child or the community.

6 7. In making the determination required by subsection  
7 six (6), paragraph c, of this section, the factors which the  
8 court shall consider include but are not limited to the  
9 following:

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

12 b. The nature and extent of the child's prior contacts  
13 with juvenile authorities, including past efforts of such  
14 authorities to treat and rehabilitate the child and the  
15 response to such efforts.

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

22 8. If at the conclusion of the hearing the court waives  
23 its jurisdiction over the child the court shall make and file  
24 written findings as to its reasons for waiving its  
25 jurisdiction.

26 9. If the court waives jurisdiction, statements made by  
27 the child after being taken into custody and prior to service  
28 of notice under subsection three (3) of this section, or at  
29 a waiver hearing held pursuant to this section, are not  
30 admissible as evidence in chief against the child in subsequent  
31 criminal proceedings over the child's objection.

32 10. If the court waives its jurisdiction over the child  
33 so that the child may be prosecuted as an adult, the judge  
34 who made the waiver decision shall not preside at any  
35 subsequent proceedings in connection with that prosecution

1 over the objection of the child.

2 11. If a child who is alleged to have delivered,  
3 manufactured, or possessed with intent to deliver or  
4 manufacture, a controlled substance except marijuana, as  
5 defined in chapter two hundred four (204) of the code, is  
6 waived to district court for prosecution, the mandatory minimum  
7 sentence provided in chapter twelve hundred forty-five (1245),  
8 Acts of the Sixty-sixth General Assembly, 1976 Session, chapter  
9 four (4), section two hundred twenty-five (225) shall not  
10 be imposed if a conviction is had; however, each child  
11 convicted of such an offense shall be confined for not less  
12 than thirty days in a secure facility.

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

16 a. Five years have elapsed since the final discharge of  
17 that person; and

18 b. The person has not been convicted of a felony or an  
19 aggravated or serious misdemeanor, or adjudicated a delinquent  
20 for an act which if committed by an adult would be a felony,  
21 or an aggravated or serious misdemeanor since the final  
22 discharge of that person.

23 Sec. 25. NEW SECTION. CONSENT DECREE.

24 1. At any time after the filing of a petition and prior  
25 to entry of an order of adjudication pursuant to section  
26 twenty-six (26) of this Act, the court may suspend the  
27 proceedings on motion of the county attorney or the child's  
28 counsel, enter a consent decree, and continue the case under  
29 terms and conditions established by the court. These terms  
30 and conditions may include the supervision of the child by  
31 a juvenile probation officer or other agency or person  
32 designated by the court.

33 2. A consent decree shall not be entered unless the child  
34 and his or her parent, guardian or custodian is informed of  
35 the consequences of the decree by the court and the court

1 determines that the child has voluntarily and intelligently  
2 agreed to the terms and conditions of the decree. If the  
3 county attorney objects to the entry of a consent decree,  
4 the court shall proceed to determine the appropriateness of  
5 entering a consent decree after consideration of any objections  
6 or reasons for entering such a decree.

7 3. A consent decree shall remain in force for six months  
8 unless the child is sooner discharged by the court or by the  
9 juvenile probation officer or other agency or person  
10 supervising the child. Upon application of a juvenile  
11 probation officer or other agency or person supervising the  
12 child made prior to the expiration of the decree and after  
13 notice and hearing, or upon agreement by the parties, a consent  
14 decree may be extended for an additional six months by order  
15 of the court.

16 4. When a child has complied with the express terms and  
17 conditions of the consent decree for the required amount of  
18 time or until earlier dismissed as provided in subsection  
19 three (3) of this section, the original petition may not be  
20 reinstated. However, failure to so comply may result in the  
21 child's being thereafter held accountable as if the consent  
22 decree had never been entered.

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

27 Sec. 26. NEW SECTION. ADJUDICATORY HEARING--  
28 FINDINGS-ADJUDICATION.

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

33 2. The court shall hear and adjudicate all cases involving  
34 a petition alleging a child to be delinquent.

35 3. The child shall have the right to adjudication by an

1 impartial finder of fact. A judge of the juvenile court may  
2 not serve as the finder of fact over objection of the child  
3 based upon a showing of prejudice on the part of the judge.  
4 In the event that a judge is disqualified from serving as  
5 a finder of fact under this provision, a substitute judge  
6 shall serve as the finder of fact.

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

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

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

15 a. Statements or other evidence derived directly or  
16 indirectly from statements which a child makes without the  
17 presence of counsel to a law enforcement officer while in  
18 custody unless the child and his or her attorney consent to  
19 the admission of such statements or evidence.

20 b. Statements or other evidence derived directly or  
21 indirectly from statements which a child makes to a juvenile  
22 intake officer without the presence of counsel subsequent  
23 to the filing of a complaint and prior to adjudication unless  
24 the child and his or her attorney consent to the admission  
25 of such statements or evidence.

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

29 7. At the conclusion of an adjudicatory hearing, the court  
30 shall make a finding as to whether the child has engaged in  
31 delinquent conduct. The court shall make and file written  
32 findings as to the truth of the specific allegations of the  
33 petition and as to whether the child has engaged in delinquent  
34 conduct.

35 8. If the court finds that the child did not engage in

1 delinquent conduct, the court shall enter an order dismissing  
2 the petition.

3 9. If the court finds that the child did engage in  
4 delinquent conduct, the court may enter an order adjudicating  
5 the child to be a delinquent child. The child shall be  
6 presumed to be innocent of the charges against him or her  
7 and no finding that a child has engaged in delinquent conduct  
8 may be made unless the state has proved beyond a reasonable  
9 doubt that the child engaged in such behavior.

10 10. A previous finding that the child is a child in need  
11 of assistance in accordance with the provisions of this Act,  
12 whether prior to or subsequent to an adjudicatory hearing  
13 under this section, shall not preclude or nullify a finding  
14 that the child engaged in delinquent conduct.

15 Sec. 27. NEW SECTION. PREDISPOSITION INVESTIGATION AND  
16 REPORT.

17 1. The court shall not make a disposition of the petition  
18 following the entry of an order of adjudication pursuant to  
19 section twenty-six (26) of this Act until a predisposition  
20 report has been submitted to and considered by the court.  
21 The court may direct a juvenile probation officer or any other  
22 agency or individual to conduct a predisposition investigation  
23 and to prepare a predisposition report.

24 2. A predisposition investigation shall not be conducted  
25 prior to the adjudication of the child without the consent  
26 of the child and his or her counsel. No predisposition report  
27 shall be submitted to or considered by the court prior to  
28 the completion of the adjudicatory hearing.

29 3. A predisposition report shall not be disclosed except  
30 as provided in this section and except as otherwise provided  
31 in Division eight (VIII) of this Act. Prior to the  
32 dispositional hearing, the court shall permit the child's  
33 attorney to inspect any predisposition report to be considered  
34 by the court in making a disposition. The court may in its  
35 discretion order counsel not to disclose parts of the report

1 to the child, or to the child's parent, guardian, guardian  
2 ad litem, or custodian if the court finds that disclosure  
3 would seriously harm the treatment or rehabilitation of the  
4 child or would violate a promise of confidentiality given  
5 to a source of information.

6 Sec. 28. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

7 1. Following the entry of an order of adjudication under  
8 section twenty-six (26) of this Act the court may after a  
9 hearing, order a physical or mental examination of the child  
10 if it finds that an examination is necessary to determine  
11 the child's physical or mental condition.

12 2. When possible an examination shall be conducted on  
13 an out-patient basis, but the court may, if it deems necessary,  
14 commit the child to a suitable hospital, facility or  
15 institution for the purpose of examination. Commitment for  
16 examination shall not exceed thirty days and the civil  
17 commitment provisions of chapter two hundred twenty-nine (229)  
18 of the Code shall not apply.

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

22 a. The court finds such examination to be in the best  
23 interest of the child; and

24 b. The parent, guardian or custodian and the child's  
25 counsel agree.

26 Sec. 29. NEW SECTION. DISPOSITIONAL HEARING.

27 1. As soon as practicable following the entry of an order  
28 of adjudication pursuant to section twenty-six (26) of this  
29 Act, the court shall hold a dispositional hearing in order  
30 to determine what disposition should be made of the petition.

31 2. At that hearing all relevant and material evidence  
32 shall be admitted.

33 3. When the dispositional hearing is concluded the court  
34 shall enter an order to make any one or more of the  
35 dispositions authorized under section thirty-one (31) of this

1 Act.

2 Sec. 30. NEW SECTION. DISPOSITION OF MENTALLY ILL CHILD.

3 If the evidence received at an adjudicatory or a dispositional  
4 hearing indicates that the child is mentally ill, the court  
5 may direct the juvenile probation officer or the department  
6 to initiate proceedings or to assist the child's parent or  
7 guardian to initiate proceedings under chapter two hundred  
8 twenty-nine (229) of the Code. If the evidence received at  
9 an adjudicatory or a dispositional hearing indicates that  
10 the child is mentally retarded, the court may direct the  
11 juvenile probation officer or the department to initiate  
12 proceedings or to assist the child's parent or guardian to  
13 initiate proceedings under chapter two hundred twenty-two  
14 (222) of the Code. In the event the child is committed as  
15 a mentally ill or mentally retarded child, any order  
16 adjudicating the child a delinquent shall be set aside and  
17 the petition shall be dismissed.

18 Sec. 31. NEW SECTION. DISPOSITION OF DELINQUENT CHILD.

19 1. No dispositional order shall be made unless the court  
20 finds that the child is in need of rehabilitation or that  
21 the protection of the public or the child requires that a  
22 dispositional order be made. If the court does not make such  
23 a finding it shall enter a final judgment without ordering  
24 a disposition. Nothing in this paragraph shall preclude the  
25 court from ordering a work assignment or assignments or from  
26 ordering restitution in appropriate cases. Restitution may  
27 include monetary restitution if the child has his or her own  
28 source of income, and may include an appropriate work  
29 assignment of value to the victim.

30 2. If the court makes a finding in compliance with  
31 subsection one (1) of this section the court shall enter a  
32 dispositional order specifying the following:

- 33 a. The nature of the disposition.  
34 b. The maximum duration of such disposition.  
35 c. Where such order affects the residency and the legal

1 custody of the child, the type of residence or confinement  
2 ordered and the agency, association, institution, facility  
3 or individual in whom custody is vested.

4 3. The court shall enter the least restrictive  
5 dispositional order appropriate in view of the seriousness  
6 of the delinquent act, the child's culpability as indicated  
7 by the circumstances of the particular case, the age of the  
8 child and the child's prior record.

9 4. The dispositional orders which the court may enter,  
10 ranging from least restrictive to most restrictive, are as  
11 follows:

12 a. An order permitting the child to remain in his or her  
13 place of residence and in the custody of his or her parent,  
14 guardian or custodian, subject to such conditions and terms  
15 as the court prescribes.

16 b. An order permitting the child to remain in his or her  
17 place of residence and in the custody of his or her parent,  
18 guardian or custodian and placing the child on probation  
19 subject to such conditions and terms as the court prescribes.

20 c. An order transferring the custody of the child, subject  
21 to the continuing jurisdiction of the court for the purposes  
22 of section thirty-three (33) of this Act, to the juvenile  
23 probation office, to the commissioner of the department of  
24 social services or to the director of another agency for  
25 placement in a licensed foster home or to an adult relative  
26 or other adult suitable to the court and placing the child  
27 on probation under such conditions as the court prescribes.

28 d. An order transferring the custody of the child, subject  
29 to the continuing jurisdiction of the court for the purposes  
30 of section thirty-three (33) of this Act, to the commissioner  
31 of the department of social services or to the director of  
32 another agency, facility or institution which is licensed  
33 or otherwise authorized by law to receive and provide care  
34 for the child, provided that:

35 (1) The child is at least ten years of age; and

1 (2) The court finds that the dispositions enumerated in  
2 paragraphs a, b, or c of this subsection would be inadequate  
3 for the needs of the child and that such needs can be met  
4 by placement of the child in a nonsecure facility.

5 e. An order transferring the custody of the child, subject  
6 to the continuing jurisdiction of the court for the purposes  
7 of section thirty-three (33) of this Act, to the commissioner  
8 of the department of social services for purposes of placement  
9 in the Iowa training school for boys or the Iowa training  
10 school for girls or other secure facility operated or  
11 supervised by the department, provided that:

12 (1) The child is at least twelve years of age; and

13 (2) The court finds that there is a substantial likelihood  
14 that such placement is necessary to prevent the child from  
15 inflicting physical harm on others or from committing repeated,  
16 serious crimes against property and that the dispositions  
17 enumerated in paragraphs a, b, c, or d of this subsection  
18 will not provide adequate protection from such risks.

19 5. If the child is in need of special care or treatment  
20 for his or her physical, emotional or mental health, the court  
21 may provide for such treatment on its own order, and may order  
22 the parent, guardian, or custodian to reimburse the county  
23 for any costs incurred as provided in section seventy-three  
24 (73), subsection two (2) of this Act. The court may order  
25 a commitment to a mental health institute or other appropriate  
26 secure facility for the purposes of treatment of a mental  
27 or emotional condition only after making findings pursuant  
28 to the standards set out for involuntary commitment in chapter  
29 two hundred twenty-nine (229) of the Code.

30 6. When the court enters an order placing a child on  
31 probation pursuant to subsection three (3) of this section,  
32 the court may in cases of change of residency transfer  
33 jurisdiction of the child to the juvenile court of the county  
34 where the child's residence is established. The court to  
35 which the jurisdiction of the child is transferred shall have

1 the same powers with respect to the child as if the petition  
2 had originally been filed in that court.

3 7. When the court enters an order transferring legal and  
4 physical custody of a child to an agency, facility or  
5 institution pursuant to this section, the court shall transmit  
6 its order, a copy of its finding and a summary of its  
7 information concerning the child to such agency, association,  
8 facility or institution.

9 Sec. 32. NEW SECTION. DURATION OF DISPOSITIONAL ORDERS.

10 1. Any dispositional order entered by the court pursuant  
11 to section thirty-one (31) of this Act shall remain in force  
12 for an indeterminate period or until the child becomes eighteen  
13 years of age unless otherwise specified by the court or unless  
14 sooner terminated pursuant to the provisions of section thirty-  
15 three (33) of this Act provided that no dispositional order  
16 shall remain in force longer than the maximum possible duration  
17 of the sentence which may be imposed on an adult for the  
18 commission of the act for which the child is alleged to be  
19 delinquent.

20 2. All dispositional orders shall automatically terminate  
21 when the child becomes eighteen years of age, except that  
22 in the case of an adult within the jurisdiction of the court  
23 under the provisions of section three (3), subsection one  
24 (1) of this Act, the dispositional order shall automatically  
25 terminate one year after the last date upon which jurisdiction  
26 could attach.

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

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

35 The court shall make written acknowledgement to the agency,

1 facility, institution or person who files a report pursuant  
2 to this section within ten days of its receipt.

3 Sec. 33. NEW SECTION. TERMINATION, MODIFICATION, OR  
4 VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER. At any  
5 time prior to its expiration, a dispositional order may be  
6 terminated, modified, or vacated and another dispositional  
7 order substituted therefor only in accordance with the  
8 following provisions:

9 1. With respect to a dispositional order made pursuant  
10 to section thirty-one (31), subsection four (4), paragraph  
11 b of this Act and upon the motion of a child, a child's parent  
12 or guardian, a child's guardian ad litem, a person supervising  
13 the child under a dispositional order, a county attorney,  
14 or upon its own motion, the court may terminate the order  
15 and discharge the child, modify the order, or vacate the order  
16 and substitute another order pursuant to the provisions of  
17 section thirty-one (31) of this Act. Notice shall be afforded  
18 all parties, and a hearing shall be held at the request of  
19 any party.

20 2. With respect to a dispositional order made pursuant  
21 to section thirty-one (31), subsection four (4), paragraphs  
22 c, d, or e of this Act, the court shall grant a motion of  
23 the person or agency to whom custody has been transferred  
24 for termination of the order and discharge of the child, for  
25 modification of the order by imposition of less restrictive  
26 conditions, or for vacation of the order and substitution  
27 of a less restrictive order. Notice shall be afforded the  
28 parties and unless a party requests a hearing, the right to  
29 a hearing shall be deemed waived.

30 3. With respect to a dispositional order made pursuant  
31 to section thirty-one (31), subsection four (4), paragraphs  
32 c, d, or e of this Act, the court shall, in the absence of  
33 objection by the child, grant a motion of a person or agency  
34 to whom custody has been transferred for modification of the  
35 order by transfer to an equally restrictive placement. If

1 the child objects to the transfer the court may, after notice  
2 and hearing, either grant or deny the motion for transfer.

3 4. With respect to a dispositional order made pursuant  
4 to section thirty-one (31), subsection four (4), paragraphs  
5 c, d, and e of this Act, the court may, after notice and  
6 hearing, either grant or deny a motion of the child, the  
7 child's parent or guardian, or the child's guardian ad litem,  
8 to terminate the order and discharge the child, to modify  
9 the order either by imposing less restrictive conditions or  
10 by transfer to an equally or less restrictive placement, or  
11 to vacate the order and substitute a less restrictive order.  
12 A motion may be made pursuant to this paragraph no more than  
13 once every six months.

14 5. With respect to a dispositional order made pursuant  
15 to section thirty-one (31), subsection four (4), paragraphs  
16 c, d, and e of this Act, the court may, after notice and a  
17 hearing at which there is presented clear and convincing  
18 evidence to support such an action, either grant or deny a  
19 motion by a county attorney or by a person or agency to whom  
20 custody has been transferred, to modify an order by imposing  
21 more restrictive conditions or to vacate the order and  
22 substitute a more restrictive order.

23 Notice requirements of this section shall be satisfied  
24 in the same manner as for adjudicatory hearings as provided  
25 in section eighteen (18) of this Act. At a hearing under  
26 this section all relevant and material evidence shall be  
27 admitted.

28 Sec. 34. NEW SECTION. EFFECT OF ADJUDICATION AND  
29 DISPOSITION.

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

35 2. The adjudication and disposition of a child and evidence

1 given in a proceeding under this division shall not be  
2 admissible as evidence against the child in any subsequent  
3 proceeding in any other court before or after reaching majority  
4 except in a sentencing proceeding after conviction of a felony.

5 DIVISION III

6 CHILD IN NEED OF ASSISTANCE PROCEEDINGS

7 PART 1

8 GENERAL PROVISIONS

9 Sec. 35. NEW SECTION. JURISDICTION.

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

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

16 Sec. 36. NEW SECTION. VENUE.

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

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

24 a. When it appears that the best interests of the child  
25 or the convenience of the proceedings shall be served by a  
26 transfer, the court may transfer the case to the court of  
27 the county of the child's residence.

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

31 3. The court shall transfer the case by ordering the  
32 transfer and a continuance and by forwarding to the clerk  
33 of the receiving court a certified copy of all papers filed  
34 together with an order of transfer. The judge of the receiving  
35 court may accept the filings of the transferring court or

1 may direct the filing of a new petition and hear the case  
2 anew.

3 Sec. 37. NEW SECTION. MODIFICATION OF CUSTODY DECREE.

4 During the pendency of an action under this division, a parent  
5 without custody pursuant to a decree of dissolution of marriage  
6 is estopped from applying for a modification of the custody  
7 decree in a court of this or any other state.

8 PART 2

9 TEMPORARY REMOVAL OF A CHILD

10 Sec. 38. NEW SECTION. TEMPORARY REMOVAL OF A CHILD  
11 PURSUANT TO EX PARTE COURT ORDER.

12 1. The juvenile court may enter an ex parte order directing  
13 a peace officer to remove a child from his or her home before  
14 or after the filing of a petition under this Act provided:

15 a. The parent, guardian, or legal custodian is absent,  
16 or though present, was asked and refused to consent to the  
17 removal of the child and was informed of an intent to apply  
18 for an order under this section; and

19 b. It appears that the child's immediate removal is  
20 necessary to avoid imminent danger to the child's life or  
21 health; and

22 c. There is not enough time to file a petition and hold  
23 a hearing under section fifty (50) of this Act.

24 2. The order shall specify the facility to which the child  
25 is to be brought. Except for good cause shown or unless the  
26 child is sooner returned to the place where he or she was  
27 residing, a petition shall be filed under this Act within  
28 three days of the issuance of the order.

29 3. The juvenile court may enter an order authorizing a  
30 physician or hospital to provide emergency medical or surgical  
31 procedures before the filing of a petition under this Act  
32 provided:

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

35 b. There is not enough time to file a petition under this

1 Act and hold a hearing as provided in section fifty (50) of  
2 this Act.

3 4. Any person who may file a petition under this Act may  
4 apply for, or the court on its own motion may issue, an order  
5 for temporary removal under this section. An appropriate  
6 person designated by the court shall confer with a person  
7 seeking the removal order, shall make every reasonable effort  
8 to inform the parent or other person legally responsible for  
9 the child's care of the application, and shall make such  
10 inquiries as will aid the court in disposing of such  
11 application.

12 Sec. 39. NEW SECTION. REMOVAL WITHOUT COURT ORDER.

13 1. A peace officer may remove a child from his or her  
14 home or a physician treating a child may keep the child in  
15 custody without a court order as required under section thirty-  
16 nine (39) of this Act and without the consent of a parent,  
17 guardian, or custodian provided that:

18 a. The child is in such circumstance or condition that  
19 his or her continued presence in the residence or in the care  
20 or custody of the parent, guardian, or custodian presents  
21 an imminent danger to the child's life or health; and

22 b. There is not enough time to apply for an order under  
23 section thirty-nine (39) of this Act.

24 2. If a person authorized by this section removes or  
25 retains custody of a child, he or she shall:

26 a. Bring the child immediately to a place designated by  
27 the rules of the court for this purpose, unless the person  
28 is a physician treating the child and the child is or will  
29 presently be admitted to a hospital,

30 b. Make every reasonable effort to inform the parent,  
31 guardian, or custodian of the whereabouts of the child.

32 c. Promptly inform the court in writing of the emergency  
33 removal and the circumstances surrounding the removal.

34 3. Any person, agency, or institution acting in good faith  
35 in the removal or keeping of a child pursuant to this section,

1 and any employer of or person under the direction of such  
2 a person, agency, or institution, shall have immunity from  
3 any civil or criminal liability that might otherwise be  
4 incurred or imposed as the result of such removal or keeping.  
5 The court shall not deny immunity solely because of an  
6 inadvertent failure to comply with the requirements of  
7 subsection two (2) of this section.

8 4. When the court is informed that there has been an  
9 emergency removal or keeping of a child without a court order,  
10 the court shall direct the department of social services or  
11 the juvenile probation department to make every reasonable  
12 effort to communicate immediately with the child's parent  
13 or parents or other person legally responsible for the child's  
14 care. The court shall also authorize the department of social  
15 services or the juvenile probation department to cause a child  
16 thus removed or kept to be returned if it concludes there  
17 is not an imminent risk to the child's life and health in  
18 so doing. If the child is not returned, the department of  
19 social services or the juvenile probation department shall  
20 forthwith cause a petition to be filed within three days after  
21 the removal.

22 5. When there has been an emergency removal or keeping  
23 of a child without a court order, a physical examination of  
24 the child by a licensed medical practitioner shall be performed  
25 within twenty-four hours of such removal.

26 Sec. 40. NEW SECTION. HOMEMAKER SERVICES. A homemaker-  
27 home health aide may be assigned to give care to a child in  
28 the child's place of residence. Whenever possible, such  
29 services shall be provided in preference to removal of the  
30 child from the home. Such care may be provided under this  
31 Act on an emergency basis for up to twenty-four hours without  
32 court order, and may be ordered by the court for a period  
33 of time extending until dismissal or disposition of the case.  
34 Expenses incurred under this section shall be paid for  
35 according to, and reimbursement from the parent, guardian

1 or custodian may be sought under, the provisions of section  
2 seventy-two (72) of this Act.

3 Sec. 41. NEW SECTION. COMPLAINT.

4 1. Any person having knowledge of the circumstances may  
5 file a complaint with the person or agency designated by the  
6 court to perform intake duties alleging that a child is a  
7 child in need of assistance.

8 2. Upon receipt of a complaint, the court may request  
9 the department of social services, juvenile probation office,  
10 or other authorized agency or individual to conduct a  
11 preliminary investigation of the complaint to determine if  
12 further action should be taken.

13 3. A petition alleging the child to be a child in need  
14 of assistance should be filed pursuant to section forty-two  
15 (42) of this Act provided the allegations of the complaint,  
16 if proven, are sufficient to establish the court's jurisdiction  
17 and the filing is in the best interests of the child.

18 4. A person or agency shall not maintain any records with  
19 regard to a complaint filed under division three (III) of  
20 this Act which is dismissed without the filing of a petition.

21 PART 3

22 JUDICIAL PROCEEDINGS

23 Sec. 42. NEW SECTION. FILING OF A PETITION--CONTENTS  
24 OF PETITION.

25 1. A formal judicial proceeding to determine whether a  
26 child is a child in need of assistance under this Act shall  
27 be initiated by the filing of a petition alleging a child  
28 to be a child in need of assistance.

29 2. A petition may be filed by the department of social  
30 services, probation officer, or county attorney.

31 3. The department, probation officer, county attorney  
32 or judge may authorize the filing of a petition with the clerk  
33 of the court by any competent person having knowledge of the  
34 circumstances without the payment of a filing fee.

35 4. The petition shall be submitted in the form specified

1 in section seventeen (17) of this Act.

2 5. The petition shall contain the information specified  
3 in section seventeen (17) of this Act and a clear and concise  
4 summary of the facts which bring the child within the  
5 jurisdiction of the court under this division.

6 Sec. 43. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND  
7 SERVICES. After a petition has been filed the court shall  
8 issue and serve summons, notice, subpoenas and other process  
9 in the same manner as for adjudicatory hearings in cases of  
10 juvenile delinquency as provided in section eighteen (18)  
11 of this Act.

12 Sec. 44. NEW SECTION. RIGHT TO AND APPOINTMENT OF COUNSEL.

13 1. Upon the filing of a petition the parent, guardian  
14 or custodian identified in the petition shall have the right  
15 to counsel in connection with all subsequent hearings and  
16 proceedings. If that person desires but is financially unable  
17 to employ counsel, the court shall appoint counsel.

18 2. Upon the filing of a petition the court shall appoint  
19 counsel for the child identified in the petition as a party  
20 to the proceedings, and the court shall appoint a guardian  
21 ad litem. The same person may serve both as child's counsel  
22 and as guardian ad litem.

23 Sec. 45. NEW SECTION. DUTIES OF COUNTY ATTORNEY. The  
24 county attorney shall represent the state in all proceedings  
25 arising from a petition filed under this division and shall  
26 present evidence in support of the petition.

27 Sec. 46. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS.

28 Any hearings or proceedings under this division subsequent  
29 to the filing of a petition shall not take place without the  
30 presence of the child's parent, guardian or custodian in  
31 accordance with and subject to the provisions of section  
32 nineteen (19) of this Act. A parent without custody may  
33 petition the court to be made a party to proceedings under  
34 this division.

35 Sec. 47. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS.

1 The court shall exclude and admit persons to hearings and  
2 proceedings under this division in accordance with and subject  
3 to the provisions of section nineteen (19) of this Act.

4 Sec. 48. NEW SECTION. OTHER ISSUES ADJUDICATED. When  
5 it appears during the course of any hearing or proceeding  
6 that some action or remedy other than or in addition to those  
7 indicated by the application or pleading appears appropriate,  
8 the court may, provided all necessary parties consent, proceed  
9 to hear and determine the additional or other issues as though  
10 originally properly sought and pleaded.

11 Sec. 49. NEW SECTION. REPORTER REQUIRED. Stenographic  
12 notes or mechanical recordings shall be taken of all court  
13 hearings held pursuant to this division unless waived by the  
14 parties. The child shall not be competent to waive the  
15 reporting requirement, but waiver may be made for the child  
16 by the child's counsel or guardian ad litem. Matters which  
17 must be reported under the provisions of this section shall  
18 be the same as those required in section six hundred twenty-  
19 four point nine (624.9) of the Code.

20 Sec. 50. NEW SECTION. HEARING CONCERNING TEMPORARY  
21 REMOVAL.

22 1. At any time after the petition is filed any person  
23 who may file a petition under section forty-two (42) of this  
24 Act may apply for, or the court on its own motion may order,  
25 a hearing to determine whether the child should be temporarily  
26 removed from home. Where the child is in the custody of a  
27 person other than the child's parent, guardian or custodian  
28 as the result of action taken pursuant to section thirty-eight  
29 (38) or thirty-nine (39) of this Act, the court shall hold  
30 a hearing to determine whether the temporary removal should  
31 be continued.

32 2. Upon such hearing, the court may:

33 a. Remove the child from home and place the child in a  
34 shelter care facility or in the custody of a suitable person  
35 or agency pending a final order of disposition if the court

1 finds that removal is necessary to avoid imminent risk to  
2 the child's life or health.

3 b. Release the child to his or her parent, guardian or  
4 custodian pending a final order of disposition.

5 c. Authorize a physician or hospital to provide medical  
6 or surgical procedures if such procedures are necessary to  
7 safeguard the child's life or health.

8 3. The court shall make and file written findings as to  
9 the grounds for granting or denying an application under this  
10 section.

11 Sec. 51. NEW SECTION. ADJUDICATORY HEARING.

12 1. The court shall hear and adjudicate cases involving  
13 a petition alleging a child to be a child in need of  
14 assistance.

15 2. The state shall have the burden of proving the  
16 allegations by clear and convincing evidence.

17 3. Only evidence which is admissible under the rules of  
18 evidence applicable to the trial of civil cases shall be  
19 admitted, except as otherwise provided by this section.

20 4. A report made to the department of social services  
21 pursuant to chapter two hundred thirty-five A (235A) of the  
22 Code shall be admissible in evidence if the person making  
23 the report does not appear as a witness at the hearing, but  
24 such a report shall not alone be sufficient to support a  
25 finding that the child is a child in need of assistance unless  
26 the attorneys for the child and the parents consent to such  
27 a finding.

28 5. Neither the privilege attaching to confidential  
29 communications between a physician and patient nor the  
30 privilege attaching to confidential communications between  
31 husband and wife shall be ground for excluding evidence at  
32 an adjudicatory hearing.

33 6. A report, study, record, or other writing made by the  
34 department of social services, a juvenile probation officer,  
35 a peace officer or a hospital relating to a child in a

1 proceeding under this division shall be admissible  
2 notwithstanding any objection to hearsay statements contained  
3 therein provided it is relevant and material and provided  
4 its probative value substantially outweighs the danger of  
5 unfair prejudice to the child's parent, guardian, or custodian.  
6 The circumstances of the making of the report, study, record  
7 or other writing, including the maker's lack of personal  
8 knowledge, may be proved to affect its weight.

9 7. After the hearing is concluded, the court shall make  
10 and file written findings as to the truth of allegations of  
11 the petition and as to whether the child is a child in need  
12 of assistance.

13 8. If the court concludes facts sufficient to sustain  
14 a petition have not been established by clear and convincing  
15 evidence or if the court concludes that its aid is not required  
16 in the circumstances, the court shall dismiss the petition.

17 9. If the court concludes that facts sufficient to sustain  
18 the petition have been established by clear and convincing  
19 evidence and that its aid is required, the court may enter  
20 an order adjudicating the child to be a child in need of  
21 assistance.

22 Sec. 52. NEW SECTION. SOCIAL INVESTIGATION AND REPORT.

23 1. The court shall not make any disposition of the petition  
24 until a social report has been submitted to and considered  
25 by the court. The court may direct the department of social  
26 services or any other agency licensed by the state to conduct  
27 a social investigation and to prepare a social report.

28 2. The social investigation may be conducted and the  
29 social history may be submitted to the court prior to the  
30 adjudication of the child as a child in need of assistance  
31 with the consent of the parties.

32 3. The social report shall not be disclosed except as  
33 provided in this section and except as otherwise provided  
34 in this Act. Prior to the hearing at which the disposition  
35 is determined, the court shall permit counsel for the child

1 and counsel for the child's parent, guardian or custodian  
2 to inspect any social report to be considered by the court.  
3 The court may in its discretion order such counsel not to  
4 disclose parts of the report to the child, or to the parent,  
5 guardian or custodian if disclosure would seriously harm the  
6 treatment or rehabilitation of the child or would violate  
7 a promise of confidentiality given to a source of information.

8 Sec. 53. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

9 1. A physical or mental examination of the child may be  
10 ordered only after the filing of a petition pursuant to section  
11 forty-two (42) of this Act and after a hearing to determine  
12 whether such an examination is necessary to determine the  
13 child's physical or mental condition.

14 An examination ordered prior to the adjudication may be  
15 performed on an outpatient basis only. An examination ordered  
16 after adjudication shall be conducted on an outpatient basis  
17 whenever possible, but if necessary the court may commit the  
18 child to a suitable hospital, facility or institution for  
19 the purpose of examination for a period not to exceed thirty  
20 days. The civil commitment provisions of chapter two hundred  
21 twenty-nine (229) of the Code shall not apply to such  
22 commitments.

23 The hearing required by this section may be held  
24 simultaneously with the adjudicatory hearing.

25 2. Following an adjudication that a child is a child in  
26 need of assistance, the court may after a hearing order the  
27 physical or mental examination of the parent, guardian or  
28 custodian if that person's ability to care for the child is  
29 at issue.

30 Sec. 54. NEW SECTION. DISPOSITIONAL HEARING--FINDINGS.

31 1. Following the entry of an order pursuant to section  
32 fifty-one (51) of this Act, the court shall, as soon as  
33 practicable, hold a dispositional hearing in order to determine  
34 what disposition should be made of the petition.

35 2. All relevant and material evidence shall be admitted.

1 3. When the dispositional hearing is concluded the court  
2 shall make the least restrictive disposition appropriate  
3 considering all the circumstances of the case. The  
4 dispositions which may be entered under this division are  
5 listed in sections fifty-five (55) through fifty-seven (57)  
6 of this Act in order from least to most restrictive.

7 4. The court shall make and file written findings as to  
8 its reasons for the disposition.

9 Sec. 55. NEW SECTION. SUSPENDED JUDGMENT. After the  
10 dispositional hearing the court may enter an order suspending  
11 judgment and continuing the proceedings subject to terms and  
12 conditions imposed to assure the proper care and protection  
13 of the child. Such terms and conditions may include the  
14 supervision of the child and of the parent, guardian or  
15 custodian by the department of social services, juvenile  
16 probation office or other appropriate agency designated by  
17 the court. The maximum duration of any term or condition  
18 of a suspended judgment shall be twelve months unless the  
19 court finds at a hearing held during the last month of that  
20 period that exceptional circumstances require an extension  
21 of the term or condition for an additional six months.

22 Sec. 56. NEW SECTION. RETENTION OF CUSTODY BY PARENT.

23 1. After the dispositional hearing, the court may enter  
24 an order permitting the child's parent, guardian or custodian  
25 at the time of the filing of the petition to retain custody  
26 of the child subject to terms and conditions which the court  
27 prescribes to assure the proper care and protection of the  
28 child. Such terms and conditions may include supervision  
29 of the child and the parent, guardian or custodian by the  
30 department of social services, juvenile probation office or  
31 other appropriate agency which the court designates. Such  
32 terms and conditions may also include the provision or  
33 acceptance by the parent, guardian or custodian of special  
34 treatment or care which the child needs for his or her physical  
35 or mental health. If the parent, guardian or custodian fails

1 to provide the treatment or care, the court may order the  
2 department of social services or some other appropriate state  
3 agency to provide such care or treatment.

4 2. The duration of any period of supervision or other  
5 terms or conditions shall be for an initial period of no more  
6 than eighteen months and the court, at the expiration of that  
7 period, upon a hearing and for good cause shown, may make  
8 successive extensions of such supervision or other terms or  
9 conditions of up to twelve months each.

10 Sec. 57. NEW SECTION. TRANSFER OF LEGAL CUSTODY OF  
11 JUVENILE AND PLACEMENT.

12 1. After a dispositional hearing the court may enter an  
13 order transferring the legal custody of the child to one of  
14 the following for purposes of placement:

15 a. A relative or other suitable person.

16 b. A child placing agency or other suitable private agency,  
17 facility or institution which is licensed or otherwise  
18 authorized by law to receive and provide care for the child.

19 c. The department of social services.

20 2. Whenever possible the court should permit the child  
21 to remain at home with his or her parent, guardian or  
22 custodian. Custody of the child should not be transferred  
23 unless the court finds there is clear and convincing evidence  
24 that:

25 a. The child cannot be protected from physical abuse  
26 without transfer of custody; or

27 b. The child cannot be protected from some harm which  
28 would justify the adjudication of the child as a child in  
29 need of assistance and an adequate placement is available.

30 3. The child shall not be placed in the Iowa training  
31 school for boys or the Iowa training school for girls.

32 4. If the court orders the transfer of the custody of  
33 the child to the department of social services or other agency  
34 for placement, the department or agency should submit to the  
35 court a specific plan for placement of the child and should

1 make every effort to return the child to his or her home as  
2 quickly as possible. If the court orders the transfer of  
3 custody to a relative or other suitable person, the court  
4 may direct the department or other agency to provide services  
5 to the child's parent, guardian or custodian in order to  
6 enable them to resume custody of the child.

7 5. The duration of any placement made after an order  
8 pursuant to this section shall be for an initial period of  
9 six months. At the expiration of that period, the court shall  
10 hold a hearing and review the placement in order to determine  
11 whether the child should be returned home, an extension of  
12 the placement should be made, or a termination of the parent-  
13 child relationship proceeding should be instituted. The  
14 placement should be terminated and the child returned to his  
15 or her home if the court finds by a preponderance of the  
16 evidence that the child will not suffer harm in the manner  
17 specified in section two (2), subsection six (6), of this  
18 Act. If the placement is extended, the court should determine  
19 whether additional services are necessary to facilitate the  
20 return of the child to his or her home, and if the court  
21 determines such services are needed, the court shall order  
22 the provision of such services.

23 Sec. 58. NEW SECTION. TERMINATION, MODIFICATION, VACATION  
24 AND SUBSTITUTION OF DISPOSITIONAL ORDER.

25 1. At any time prior to expiration of a dispositional  
26 order and upon the motion of an authorized party or upon its  
27 own motion as provided in this section, the court may terminate  
28 the order and discharge the child, modify the order, or vacate  
29 the order and make a new order.

30 2. The following persons shall be authorized to file a  
31 motion to terminate, modify or vacate and substitute a  
32 dispositional order:

- 33 a. The child.
- 34 b. The child's parent, guardian or custodian, except that  
35 such motion may be filed by that person not more often than

1 once every six months.

2 c. The child's guardian ad litem.

3 d. A person supervising the child pursuant to a  
4 dispositional order.

5 e. An agency, facility, institution or person to whom  
6 legal custody has been transferred pursuant to a dispositional  
7 order.

8 f. The county attorney.

9 3. A hearing shall be held on a motion to terminate or  
10 modify a dispositional order except that a hearing on a motion  
11 to terminate an order may be waived upon agreement by all  
12 parties. Reasonable notice of the hearing shall be given  
13 in the same manner as for adjudicatory hearings in cases of  
14 juvenile delinquency as provided in section eighteen (18)  
15 of this Act. The hearing shall be conducted in accordance  
16 with the provisions of section twenty-nine (29) of this Act.

17 4. The court may terminate an order and release the child  
18 if the court finds that the purposes of the order have been  
19 accomplished and the child is no longer in need of supervision,  
20 care or treatment.

21 5. The court may modify or vacate an order for good cause  
22 shown provided that where the request to modify or vacate  
23 is based on the child's alleged failure to comply with the  
24 conditions or terms of the order, the court may modify or  
25 vacate the order only if it finds that there is clear and  
26 convincing evidence that the child violated a material and  
27 reasonable condition or term of the order.

28 6. If the court vacates the order it may make any other  
29 order in accordance with and subject to the provisions of  
30 sections fifty-five (55) through fifty-seven (57) of this  
31 Act. In addition to or in lieu of such an order, the court  
32 may impose a work assignment or assignments to benefit the  
33 state or a governmental subdivision of the state.

34 DIVISION IV

35 TERMINATION OF PARENT-CHILD

1 RELATIONSHIP PROCEEDING

2 Sec. 59. NEW SECTION. JURISDICTION. The juvenile court  
3 shall have exclusive jurisdiction over proceedings under this  
4 Act to terminate a parent-child relationship and all parental  
5 rights with respect to a child. No such termination shall  
6 be ordered except under the provisions of this Act if the  
7 court has made an order concerning the child pursuant to the  
8 provisions of Division three (III) of this Act and the order  
9 is in force at the time a petition for termination is filed.

10 Sec. 60. NEW SECTION. VENUE.

11 1. Venue for termination proceedings under this Act shall  
12 be in the judicial district where the child is found or the  
13 judicial district where the child resides except as otherwise  
14 provided in subsection two (2) of this section.

15 2. If a court has made an order concerning the child  
16 pursuant to the provisions of this Act and the order is still  
17 in force at the time the termination petition is filed, such  
18 court shall hear and adjudicate the case unless the court  
19 transfer the case.

20 3. The judge may transfer the case to the juvenile court  
21 of any county having venue in accordance with the provisions  
22 of section thirty-six (36) of this Act.

23 Sec. 61. NEW SECTION. PETITION.

24 1. A child's guardian or custodian, the department of  
25 social services, a juvenile probation officer or the county  
26 attorney may file a petition for termination of the parent-  
27 child relationship and parental rights with respect to a child  
28 as provided in section forty-one (41) of this Act.

29 2. The department probation officer, county attorney or  
30 judge may authorize any competent person having knowledge  
31 of the circumstances to file a termination petition with the  
32 clerk of the court without the payment of a filing fee as  
33 provided in section forty-one (41) of this Act.

34 3. A petition for termination of parental rights shall  
35 include the following:

1 a. The legal name, age, and domicile, if any, of the  
2 child.

3 b. The names, residences, and domicile of any:

4 (1) Living parents of the child.

5 (2) Guardian of the child.

6 (3) Custodian of the child.

7 (4) Guardian ad litem of the child.

8 (5) Petitioner.

9 (6) Person standing in the place of the parents of the  
10 child.

11 c. A plain statement of those facts and grounds specified  
12 in section ten (10) of this Act which indicate that the parent-  
13 child relationship should be terminated.

14 d. A plain statement explaining why the petitioner does  
15 not know any of the information required under paragraphs  
16 a and b of this subsection.

17 e. The signature and verification of the petitioner.

18 Sec. 62. NEW SECTION. NOTICE-SERVICE.

19 1. Persons listed in section sixty-one (61), subsection  
20 three (3), of this Act shall be necessary parties to a  
21 termination of parent-child relationship proceeding and are  
22 entitled to receive notice and an opportunity to be heard,  
23 except that notice may be dispensed with in the case of any  
24 such person whose name or whereabouts the court determines  
25 is unknown and cannot be ascertained by reasonably diligent  
26 search.

27 2. Prior to the service of notice on the necessary parties,  
28 the juvenile court shall appoint a guardian ad litem for a  
29 minor child if the child does not have a guardian or guardian  
30 ad litem or if the interests of the guardian or guardian ad  
31 litem conflict with the interests of the child. Such guardian  
32 ad litem shall be a necessary party under subsection one (1)  
33 of this section.

34 3. Notice under this section shall be served personally  
35 or shall be sent by restricted certified mail, whichever is

1 determined by the court to be the most effective means of  
2 notification. Such notice shall be made according to the  
3 rules of civil procedure relating to an original notice where  
4 not inconsistent with the provisions of this section. Notice  
5 by personal delivery shall be served not less than seven days  
6 prior to the hearing on termination of parental rights.  
7 Notice by restricted certified mail shall be sent not less  
8 than fourteen days prior to the hearing on termination of  
9 parental rights. A notice by restricted certified mail which  
10 is refused by the necessary party given notice shall be  
11 sufficient notice to the party under this section.

12 Sec. 63. NEW SECTION. GROUNDS FOR TERMINATION. Except  
13 as provided in subsection six (6) of this section, the court  
14 may order the termination of both the parental rights with  
15 respect to a child and the relationship between the parents  
16 and the child on any of the following grounds:

17 1. The parents voluntarily and intelligently consent to  
18 the termination of parental rights and the parent-child  
19 relationship and for good cause desire the termination.

20 2. The court finds that there is clear and convincing  
21 evidence that the child has been abandoned.

22 3. The court finds that:

23 a. One or both parents has physically abused the child;  
24 and

25 b. The court has previously adjudicated the child to be  
26 a child in need of assistance after finding the child to have  
27 been physically abused as the result of the acts or omissions  
28 of the parent or parents, or the court has previously  
29 adjudicated a child who is a member of the same family to  
30 be a child in need of assistance after such a finding; and

31 c. There is clear and convincing evidence that the parents  
32 had received or were offered services to correct the situation  
33 which led to the abuse.

34 4. The court finds that:

35 a. The child has been adjudicated a child in need of

1 assistance pursuant to section fifty-one (51) of this Act;  
2 and

3 b. The custody of the child has been transferred from  
4 his or her parents for placement pursuant to section fifty-  
5 seven (57) of this Act and such placement has lasted for a  
6 period of at least six months, but less than twelve months;  
7 and

8 c. There is clear and convincing evidence that the child  
9 cannot be returned to the custody of his or her parents as  
10 provided in section fifty-seven (57) of this Act; and

11 d. There is clear and convincing evidence that the parents  
12 have not maintained contact with the child during the previous  
13 six months and have made no reasonable efforts to resume care  
14 of the child despite being given the opportunity to do so.

15 5. The court finds that:

16 a. The child has been adjudicated a child in need of  
17 assistance pursuant to section fifty-one (51) of this Act;  
18 and

19 b. The custody of the child has been transferred from  
20 his or her parents for placement pursuant to section fifty-  
21 seven (57) of this Act for at least twelve months; and

22 c. There is clear and convincing evidence that the child  
23 cannot be returned to the custody of his or her parents as  
24 provided in section fifty-seven (57) of this Act.

25 6. Notwithstanding the provisions of subsections two (2)  
26 through five (5) of this section the court need not terminate  
27 the relationship between parents and child if the court finds:

28 a. A relative has legal custody of the child; or

29 b. The child is over ten years of age and objects to such  
30 termination; or

31 c. There is clear and convincing evidence that such  
32 termination would be detrimental to the child at the time  
33 due to the closeness of the parent-child relationship; or

34 d. It is necessary to place the child in a hospital,  
35 facility or institution for care and treatment and the

1 continuation of the parent-child relationship is not preventing  
2 a permanent family placement for the child.

3 Sec. 64. NEW SECTION. TERMINATION--FINDINGS--DISPOSITION.

4 1. After the hearing is concluded the court shall make  
5 and file written findings.

6 2. If the court concludes that facts sufficient to  
7 terminate parental rights have not been established by clear  
8 and convincing evidence, the court shall dismiss the petition.

9 3. If the court concludes that facts sufficient to sustain  
10 the petition have been established by clear and convincing  
11 evidence, the court may order parental rights terminated.

12 If the court terminates the parental rights of both parents,  
13 or of a sole parent, or of the mother if the child is born  
14 out of wedlock, the court shall transfer the guardianship  
15 and custody of the child to one of the following:

16 a. The department of social services.

17 b. A child placing agency or other suitable private agency,  
18 facility or institution which is licensed or otherwise  
19 authorized by law to receive and provide care for the child.

20 c. A relative or other suitable person.

21 4. If after a hearing the court does not order the  
22 termination of parental rights but finds that there is clear  
23 and convincing evidence that the child is a child in need  
24 of assistance, under section two (2), subsection six (6) of  
25 this Act, due to the acts or omissions of one or both of his  
26 or her parents the court may adjudicate the child to be a  
27 child in need of assistance and may enter an order in  
28 accordance with the provisions of sections fifty-five (55),  
29 fifty-six (56) and fifty-seven (57) of this Act.

30 Sec. 65. NEW SECTION. REMOVAL OF GUARDIAN.

31 1. Upon application of an interested party or upon the  
32 court's own motion, the court having jurisdiction of the child  
33 may, after notice to the parties and a hearing, remove a court  
34 appointed guardian and appoint a guardian in accordance with  
35 the provisions of section sixty-four (64), subsection three

1 (3), of this Act.

2 2. Any minor fourteen years of age or older who has not  
3 been adopted but who is placed in a satisfactory foster home  
4 may with the consent of the foster parents join with the  
5 guardian appointed by the court in an application to the court  
6 to remove the existing guardian and appoint the foster parents  
7 as guardians of the child.

8 3. The authority of a guardian appointed by the court  
9 terminates when the child reaches the age of majority or is  
10 adopted.

11 DIVISION V

12 FAMILY IN NEED OF ASSISTANCE PROCEEDINGS

13 Sec. 66. NEW SECTION. JURISDICTION. The juvenile court  
14 shall have exclusive jurisdiction over family in need of  
15 assistance proceedings.

16 Sec. 67. NEW SECTION. VENUE. Venue for family in need  
17 of assistance proceedings shall be determined in accordance  
18 with section thirty-six (36) of this Act.

19 Sec. 68. NEW SECTION. MODIFICATION OF CUSTODY DECREE.  
20 During the pendency of an action under this division, a parent  
21 without custody pursuant to a decree of dissolution of marriage  
22 is estopped from applying for a modification of the custody  
23 decree in a court of this or any other state.

24 Sec. 69. NEW SECTION. PETITION.

25 1. A family in need of assistance proceeding shall be  
26 initiated by the filing of a petition alleging that a child  
27 and his or her parent, guardian or custodian are a family  
28 in need of assistance.

29 2. Such a petition may be filed by the child's parent,  
30 guardian or custodian or by the child. The judge, county  
31 attorney, or probation officer may authorize such parent,  
32 guardian, custodian, or child to file a petition with the  
33 clerk of the court without the payment of a filing fee.

34 3. The petition and subsequent court documents shall be  
35 entitled "In re the family of ....."

1 4. The petition shall state the names and residences of  
2 the child, and his or her living parents, guardian, custodian  
3 and guardian ad litem, if any and the age of the child.

4 5. The petition shall allege that there has been a  
5 breakdown in the familial relationship.

6 Sec. 70. NEW SECTION. APPOINTMENT OF COUNSEL AND GUARDIAN  
7 AD LITEM. The court shall appoint counsel or a guardian ad  
8 litem to represent the interests of the child at the hearing  
9 to determine whether the family is a family in need of  
10 assistance unless the child already has such counsel or  
11 guardian.

12 Sec. 71. NEW SECTION. HEARING--ADJUDICATION--DISPOSITION.

13 1. Upon the filing of a petition, the court shall fix  
14 a time for a hearing and give notice thereof to the child  
15 and the child's parent, guardian or custodian.

16 2. A parent without custody may petition the court to  
17 be made a party to proceedings under this division.

18 3. The court shall exclude the general public from such  
19 hearing except the court in its discretion may admit persons  
20 having a legitimate interest in the case or the work of the  
21 court.

22 4. The hearing shall be informal and all relevant and  
23 material evidence shall be admitted.

24 5. The court may adjudicate the family to be a family  
25 in need of assistance and enter an appropriate dispositional  
26 order if the court finds:

27 a. There has been a breakdown in the relationship between  
28 the child and his or her parent, guardian or custodian; and

29 b. The child or his or her parent, guardian or custodian  
30 has unsuccessfully sought services from public or private  
31 agencies to maintain and improve the familial relationship;  
32 and

33 c. The court has at its disposal services for this purpose  
34 which can be made available to the family.

35 6. If the court makes such a finding the court may order

1 any or all of the parties to accept counseling and to comply  
2 with any other reasonable orders designed to maintain and  
3 improve the familial relationship. At the conclusion of such  
4 services, or at any other time deemed necessary, the parties  
5 shall be required to meet together and be apprised of the  
6 findings and recommendations of such services. Such an order  
7 shall remain in force for a period not to exceed one year  
8 unless the court otherwise specifies or sooner terminates  
9 the order.

10 7. The court may not order the child placed on probation,  
11 in a foster home or in a nonsecure facility unless the child  
12 requests and agrees to such supervision or placement. In  
13 no event shall the court order the child placed in the Iowa  
14 training school for boys or the Iowa training school for girls  
15 or other secure facility.

16 8. A child who is found in contempt of court because of  
17 violation of conditions imposed under section seventy-one  
18 (71) of this Act shall not be considered delinquent. Such  
19 a contempt may be punished by imposition of a work assignment  
20 or assignments to benefit the state or a governmental  
21 subdivision of the state. In addition to or in lieu of such  
22 an assignment or assignments, the court may impose one of  
23 the dispositions set out in sections fifty-five (55) through  
24 fifty-seven (57) of this Act.

25 If the court finds that the child has refused to comply  
26 with an order of the court under the preceding paragraph  
27 punishing him or her for contempt, the court may order the  
28 child placed in detention for not more than two (2) weeks.  
29 The court shall not place a child in detention unless it is  
30 satisfied that there exists no other way by which the child  
31 can be effectively punished for the contempt.

32 DIVISION VI

33 APPEAL

34 Sec. 72. NEW SECTION. APPEAL.

35 1. Any interested party aggrieved by any order or decree

1 of the juvenile court may appeal from the court for review  
2 of questions of law or fact.

3 2. If the hearing appealed from was held by other than  
4 a district court judge, appeal shall be to the district court.  
5 Subsequent review shall be at the discretion of the appellate  
6 courts.

7 3. The procedure for such appeals shall be governed by  
8 the same provisions applicable to appeals from the district  
9 court provided that when such order or decree affects the  
10 custody of a child the appeal shall be heard at the earliest  
11 practicable time.

12 4. The pendency of an appeal or application therefor shall  
13 not suspend the order of the juvenile court regarding a child  
14 and shall not discharge the child from the custody of the  
15 court or the agency, association, facility, institution or  
16 person to whom the court has transferred legal custody unless  
17 the appellate court otherwise orders on application of an  
18 appellant.

19 5. If the appellate court does not dismiss the proceedings  
20 and discharge the child, the appellate court shall affirm  
21 or modify the order of the juvenile court and remand the child  
22 to the jurisdiction of the juvenile court for disposition  
23 not inconsistent with the appellate court's finding on the  
24 appeal.

25 DIVISION VII  
26 EXPENSES AND COSTS

27 Sec. 73. NEW SECTION. EXPENSES CHARGED TO COUNTY.

28 1. The following expenses upon certification of the judge  
29 or upon such other authorization as provided by law are a  
30 charge upon the county in which the proceedings are held to  
31 the extent provided in subsection four (4) of this section.

32 a. The fees and mileage of witnesses and the expenses  
33 and mileage of officers serving notices and subpoenas.

34 b. The expenses of transporting a child to a place  
35 designated by a child placing agency for the care of a child

1 if the court transfers legal custody to a child placing agency.

2 c. The expense of transporting a child to or from a place  
3 designated by the court.

4 d. Reasonable compensation for an attorney appointed by  
5 the court to serve as counsel or guardian ad litem.

6 e. The expense of treatment or care ordered by the court  
7 under an authority of subsection two (2) of this section.

8 2. Whenever legal custody of a minor is transferred by  
9 the court or whenever the minor is placed by the court with  
10 someone other than the parents or whenever homemaker-home  
11 health aide service is provided under section forty (40) of  
12 this Act, or whenever a minor is given physical or mental  
13 examinations or treatment under order of the court and no  
14 provision is otherwise made by law for payment for the care,  
15 examination, or treatment of the minor, the costs shall be  
16 charged upon the funds of the county in which the proceed-  
17 ings are held upon certification of the judge to the board  
18 of supervisors. Except where the parent-child relationship  
19 is terminated, the court may inquire into the ability of the  
20 parents to support the minor and after giving the parents  
21 a reasonable opportunity to be heard may order the parents  
22 to pay in the manner and to whom the court may direct, such  
23 sums as will cover in whole or in part the cost of care,  
24 examination, or treatment of the minor. An order entered  
25 under this section shall not obligate a parent paying child  
26 support under a custody decree, except that any part of such  
27 a monthly support payment may be used to satisfy the  
28 obligations imposed by an order entered under this section.

29 If the parents fail to pay the sum without good reason, the  
30 parents may be proceeded against for contempt or the court  
31 may inform the county attorney who shall proceed against the  
32 parents to collect the unpaid sums or both. Any such sums  
33 ordered by the court shall be a judgment against each of the  
34 parents and a lien as provided in section six hundred twenty-  
35 four point twenty-three (624.23) of the Code. If all or any

1 part of the sums that the parents are ordered to pay is  
2 subsequently paid by the county, the judgment and lien shall  
3 thereafter be against each of the parents in favor of the  
4 county to the extent of such payments.

5 3. The county charged with the cost and expenses under  
6 subsection one (1) or two (2) of this section may recover  
7 the costs and expenses from the county where the child has  
8 legal settlement by filing verified claims which shall be  
9 payable as are other claims against the county. A detailed  
10 statement of the facts upon which the claim is based shall  
11 accompany the claim. Any dispute involving the legal  
12 settlement of a child for which the court has ordered payment  
13 under authority of this section shall be settled in accordance  
14 with sections two hundred fifty-two point twenty-two (252.22)  
15 and two hundred fifty-two point twenty-three (252.23) of the  
16 Code.

17 4. Costs incurred under this section shall be paid as  
18 follows:

19 a. The costs incurred under the provisions of section  
20 two hundred thirty-two point fifty-two (232.52) of the Code  
21 by each county for the fiscal years beginning July 1, 1974,  
22 1975, and 1976 shall be averaged. The average cost for each  
23 county shall be that county's base cost for the first fiscal  
24 year after the effective date of this Act.

25 b. Each county shall be required to pay for the first  
26 fiscal year after the effective date of this Act an amount  
27 equal to its base cost plus an amount equal to the percentage  
28 rate of change in the consumer price index as tabulated by  
29 the bureau of labor statistics for the current fiscal year  
30 times the base cost.

31 c. A county's base cost for a fiscal year plus the  
32 percentage rate of change amount as computed in paragraph  
33 b of this subsection shall become that county's base cost  
34 for the succeeding fiscal year. The amount to be paid in  
35 the succeeding year by the county shall be computed as provided

1 in paragraph b of this subsection.

2 d. Costs incurred under provisions of this section which  
3 are not paid by the county under the provisions of paragraphs  
4 a, b and c of this subsection shall be paid by the state.

5 Sec. 74. NEW SECTION. MAINTENANCE AND COST OF JUVENILE  
6 HOMES.

7 1. County boards of supervisors may either singly or in  
8 conjunction with one or more other counties provide and  
9 maintain juvenile detention and juvenile shelter care homes.

10 2. For the purpose of providing and maintaining such a  
11 county or multi-county home, the board of supervisors of an  
12 county may issue bonds and authorize the expenditure of such  
13 amounts as are consistent with the provisions of chapter three  
14 hundred forty-five [345] of the Code. The board of supervisors  
15 of any county is authorized to levy a tax not to exceed  
16 thirteen and one-half cents per thousand dollars of assessed  
17 value for the purpose of maintaining such a home. In counties  
18 of over one hundred fifty thousand population, the board of  
19 supervisors is authorized to levy a tax not to exceed twenty  
20 and one-fourth cents per thousand dollars of assessed value  
21 for the maintenance of such a home. Expenses for providing  
22 and maintaining such a home shall be paid by the county or  
23 counties participating in a manner to be determined by board  
24 or boards of supervisors of participating counties.

25 3. Upon request of the board of supervisors, the area  
26 education agency shall provide suitable curriculum, teaching  
27 staff, books, supplies, and other necessary materials and  
28 equipment for the instruction of children of school age who  
29 are detained in such a home.

30 4. Approved county or multi-county juvenile homes shall  
31 be entitled to receive financial aid from the state in the  
32 amount and in such manner as determined by the commissioner.  
33 Aid paid by the state shall not exceed fifty percent of the  
34 total cost of the establishment, improvements, operation,  
35 and maintenance of such a home.

1 5. The commissioner shall adopt minimal rules and standards  
2 for the establishment, maintenance, and operation of such  
3 homes as shall be necessary to effect the purposes of this  
4 Act. The commissioner shall, upon request, give guidance and  
5 consultation in the establishment and administration of such  
6 homes and programs for such homes.

7 6. The commissioner shall approve annually all such homes  
8 established and maintained under the provisions of this Act.  
9 No such home shall be approved unless it complies with minimal  
10 rules and standards adopted by the commissioner.

11 7. The juvenile court judge for each county in which a  
12 juvenile home has been established as provided in this section  
13 shall annually review the practices of said home and order  
14 the discontinuance of any practice found not to be in the  
15 best interests of children placed therein by the court.

16 DIVISION VIII.

17 RECORDS

18 Sec. 75. NEW SECTION. CONFIDENTIALITY OF JUVENILE COURT  
19 RECORDS.

20 1. Juvenile court records shall be confidential. They  
21 shall not be inspected and their contents shall not be  
22 disclosed except as provided in this section.

23 2. Official juvenile court records may be inspected and  
24 their contents may be disclosed to the following without court  
25 order:

26 a. The judge and professional court staff, including  
27 juvenile probation officers.

28 b. The child and his or her counsel.

29 c. The child's parent, guardian or custodian, and guardian  
30 ad litem.

31 d. The county attorney and his or her assistants.

32 e. An agency, association, facility or institution which  
33 has custody of the child, or is legally responsible for the  
34 care, treatment or supervision of the child.

35 f. A court, court professional staff, and adult probation

1 officers in connection with the preparation of a presentence  
2 report concerning a person who prior thereto had been the  
3 subject of a juvenile court proceeding.

4 g. An appellate court in connection with an appeal pursuant  
5 to section seventy-two (72) of this Act.

6 3. Pursuant to court order official records may be  
7 inspected by and their contents may be disclosed to:

8 a. A person conducting bona fide research for research  
9 purposes under whatever conditions the court may deem proper,  
10 provided that no personal identifying data shall be disclosed  
11 to such a person.

12 b. Persons who have a direct and legitimate interest in  
13 a proceeding or in the work of the court.

14 4. Inspection of social records and disclosure of their  
15 contents shall not be permitted except pursuant to court order  
16 or unless otherwise provided in this Act.

17 Sec. 76. NEW SECTION. FINGERPRINTS--PHOTOGRAPHS.

18 1. Except as provided in this section, a child shall not  
19 be fingerprinted by a criminal justice agency after he or  
20 she is taken into custody and fingerprint files of children  
21 shall not be inspected unless the juvenile court waives its  
22 jurisdiction over the child so that the child may be prosecuted  
23 as an adult for the commission of a public offense.

24 2. Fingerprints of a child who has been taken into custody  
25 and who is fourteen years of age or older may be taken and  
26 filed by a criminal justice agency investigating the commission  
27 of a public offense constituting a felony.

28 3. If a peace officer has reasonable grounds to believe  
29 that latent fingerprints found during the investigation of  
30 the commission of a public offense are those of a particular  
31 child, fingerprints of the child may be taken for immediate  
32 comparison with the latent fingerprints regardless of the  
33 age of the child or the nature of the offense. If the  
34 comparison is negative the fingerprint card and other copies  
35 of the fingerprints taken shall be immediately destroyed.

1 If the comparison is positive and the child is referred to  
2 the court, the fingerprint card and other copies of the  
3 fingerprints taken shall be delivered to the court for  
4 disposition. If the child is not referred to the court, the  
5 fingerprint card and copies of the fingerprints shall be  
6 immediately destroyed.

7 4. Fingerprint files of children shall be kept separate  
8 from those of adults. Copies of fingerprints of a child shall  
9 not be placed in any data storage system established and  
10 maintained by the department of public safety pursuant to  
11 chapter seven hundred forty-nine B (749B) of the Code, or  
12 in any federal depository for fingerprints.

13 5. Fingerprint files of children may be inspected by peace  
14 officers when necessary for the discharge of their official  
15 duties. The juvenile court may authorize other inspections  
16 of such files in individual cases upon a showing that  
17 inspection is necessary in the public interest.

18 6. Fingerprints of a child shall be removed from the file  
19 and destroyed if:

20 a. A petition alleging the child to be delinquent is not  
21 filed; or

22 b. After a petition is filed, the petition is dismissed  
23 or the child is found by the court not to be delinquent; or

24 c. Upon petition by the child when he or she reaches  
25 twenty-one years of age and he or she has not been adjudicated  
26 a delinquent nor convicted of committing an aggravated  
27 misdemeanor or a felony after reaching sixteen years of age.

28 7. A child shall not be photographed by a criminal justice  
29 agency after he or she is taken into custody without the  
30 consent of the court unless the court waives jurisdiction  
31 over the child so that he or she may be prosecuted as an adult  
32 for the commission of a public offense.

33 Sec. 77. NEW SECTION. LAW ENFORCEMENT RECORDS.

34 1. The taking of a child into custody under the provisions  
35 of section seven (7) of this Act shall not be considered an

1 arrest.

2 2. Records and files of a criminal justice agency  
3 concerning a child other than fingerprint and photograph  
4 records and files shall not be open to inspection and their  
5 contents shall not be disclosed except as provided in this  
6 section and section seventy-eight (78) of this Act unless  
7 the juvenile court waives its jurisdiction over the child  
8 so that the child may be prosecuted as an adult for a public  
9 offense.

10 3. Such records may be inspected and their contents may  
11 be disclosed without a court order to the following:

12 a. Peace officers of this state and other jurisdictions  
13 when necessary for the discharge of their official duties.

14 b. The judge and professional staff, including juvenile  
15 probation officers, of a juvenile court or of a juvenile or  
16 family court in another jurisdiction having the child currently  
17 before it in any proceeding.

18 c. The child, his or her counsel, parent, guardian,  
19 custodian and guardian ad litem.

20 d. The designated representative of any agency,  
21 association, facility or institution which has custody of  
22 the child, or is responsible for the care, treatment or  
23 supervision of the child pursuant to a court order.

24 e. A court in which the child has been convicted of a  
25 public offense in connection with a presentence report or  
26 dispositional proceedings.

27 4. Pursuant to court order such records may be inspected  
28 by and their contents may be disclosed to the following:

29 a. A person conducting bona fide research for research  
30 purposes under such conditions as the court may deem proper,  
31 provided that no personal identifying data shall be disclosed  
32 to such a person.

33 b. Persons who have a direct interest in a proceeding or  
34 in the work of the court.

35 Sec. 78. NEW SECTION. SEALING OF RECORDS.

1 1. Upon application of a person who was taken into custody  
2 for a delinquent act or was the subject of a complaint alleging  
3 delinquency or was the subject of a delinquency petition,  
4 or upon the court's own motion, the court, after hearing,  
5 shall order the records in the case including those specified  
6 in sections seventy-four (74) and seventy-six (76) of this  
7 Act sealed if the court finds that:

8 a. Two years have elapsed since the final discharge of  
9 such person or since the last official action in his or her  
10 case if there was no adjudication and disposition; and

11 b. Such person has not been subsequently convicted of  
12 a felony or an aggravated or serious misdemeanor or adjudicated  
13 a delinquent child for an act which if committed by an adult  
14 would be a felony, an aggravated misdemeanor or a serious  
15 misdemeanor and no proceeding is pending seeking such  
16 conviction or adjudication.

17 2. Reasonable notice of the hearing shall be given to  
18 the person who is the subject of the records named in the  
19 motion, the county attorney, and the agencies having custody  
20 of the records named in the application or motion.

21 3. Notice and copies of a sealing order shall be sent  
22 to each agency or person having custody or the records named  
23 therein.

24 4. On entry of a sealing order:

25 a. All agencies and persons having custody of records  
26 which are named therein, shall send such records to the court  
27 issuing the order.

28 b. All index references to sealed records shall be deleted.

29 5. The sealed records shall no longer be deemed to exist  
30 as a matter of law, and the juvenile court and any other  
31 agency or person who received notice and a copy of the sealing  
32 order may properly reply to an inquiry that no such records  
33 exist.

34 6. Inspection of sealed records and disclosure of their  
35 contents thereafter may be permitted only pursuant to an order

1 of the court upon application of the person who is the subject  
2 of such records except that the court in its discretion may  
3 permit reports to be inspected by or their contents to be  
4 disclosed for research purposes to a person conducting bona  
5 fide research under whatever conditions the court deems proper.

6 Sec. 79. NEW SECTION. CRIMINAL PENALTIES. Any person  
7 who knowingly discloses, receives, or makes use or permits  
8 the use of information derived directly or indirectly from  
9 the records concerning a child referred to in sections seventy-  
10 four (74), seventy-five (75), seventy-six (76), and seventy-  
11 seven (77) of this Act except as provided by those sections  
12 shall be guilty of a serious misdemeanor.

13 Sec. 80. Section one hundred six (106), subsection thirteen  
14 (13), unnumbered paragraph two (2), Code 1977, is amended  
15 to read as follows:

16 ~~Chapter-232~~ This Act shall have no application in the  
17 prosecution of offenses committed in violation of this chapter  
18 or rules and regulations which are adopted under the authority  
19 of this chapter which are punishable by a fine of not more  
20 than one hundred dollars or by imprisonment for not more than  
21 thirty days.

22 Sec. 81. Section two hundred thirty-one point three  
23 (231.3), unnumbered paragraph two (2), Code 1977, is amended  
24 to read as follows:

25 The judge of the juvenile court may appoint a referee in  
26 juvenile court proceedings. The referee shall be qualified  
27 for his or her duties by training which includes being a  
28 licensed attorney and by experience and shall hold office  
29 at the pleasure of the judge. The compensation of the referee  
30 shall be fixed by the judge. The judge may direct that any  
31 case or class of cases arising under ~~chapter-232~~ this Act  
32 or chapter 600A shall be heard in the first instance by the  
33 referee in the manner provided for the hearing of cases by  
34 the court.

35 Sec. 82. Section two hundred thirty-three point one

1 (233.1), subsection one (1), Code 1977, is amended to read  
2 as follows:

3 1. To encourage any child under eighteen years of age  
4 to commit any act of delinquency defined in ~~chapter-233-of~~  
5 ~~this-title~~ this Act.

6 Sec. 83. Section two hundred thirty-four point thirty-  
7 six (234.36), Code 1977, is amended to read as follows:

8 234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS. Each county  
9 shall pay from the county mental health and institutions fund  
10 as provided by section 444.12, subsection 2, the cost of  
11 foster care for a child placed by a court as provided in  
12 ~~section-232-337-subsection-3-or-4, or-section-232-347-s~~  
13 ~~subsection-3-or-4~~ section twenty-nine (29) or section fifty-  
14 four (54) of this Act. However, in any fiscal year for which  
15 the general assembly appropriates state funds to pay for  
16 foster care for children placed by courts under the ~~statutes~~  
17 statute or sections of this Act cited in this section, the  
18 county shall become responsible for these costs only when  
19 the funds so appropriated to the department for that fiscal  
20 year have been exhausted. The rate of payment by the county  
21 or the state, as the case may be, under this section shall  
22 be that fixed by the department of social services pursuant  
23 to section 234.38.

24 Sec. 84. Section two hundred thirty-eight point thirty-  
25 two (238.32), subsection one (1), Code 1977, is amended to  
26 read as follows:

27 1. Receive children in need of assistance, or delinquent  
28 children who are under eighteen years of age, under commitment  
29 from the juvenile court, and control and dispose of them  
30 subject to the provisions of ~~chapter-232~~ this Act and chapter  
31 600A.

32 Sec. 85. Section two hundred thirty-eight point forty-  
33 one (238.41), Code 1977, is amended to read as follows:

34 238.41 STATUTES NOT AFFECTED. Nothing contained in  
35 sections 238.33 through 238.40 shall be deemed to affect or

1 modify the provisions of ~~chapters-232-and~~ this Act or of  
2 chapter 600.

3 Sec. 86. Section two hundred forty-two point five (242.5),  
4 Code 1977, is amended to read as follows:

5 242.5 PROCEDURE TO COMMIT. The procedure for the  
6 commitment of children to the state training school, except  
7 as otherwise provided, shall be the same as provided in ~~chapter~~  
8 232 this Act.

9 Sec. 87. Section two hundred forty-four point four (244.4),  
10 Code 1977, is amended to read as follows:

11 244.4 PROCEDURE. The procedure for commitment to said  
12 homes shall be the same as provided by ~~chapter-232~~ this Act,  
13 but admission may be granted on voluntary applications signed  
14 by the legal custodian of the child and approved by a judge  
15 of a court of record, or by the board of supervisors, of the  
16 county of the child's residence. Such applications shall  
17 be subject to the approval of the state director and shall  
18 be in such form as he or she may prescribe. Any child not  
19 mentally normal, or who is incorrigible, or who has any vicious  
20 habits, or whose presence in the home would be inimical to  
21 the moral or physical welfare of normal children therein,  
22 shall be denied voluntary admission to the home.

23 Sec. 88. Section three hundred twenty-one point four  
24 hundred eighty-two (321.482), unnumbered paragraph one (1),  
25 Code 1977, is amended to read as follows:

26 It is a misdemeanor for any person to do any act forbidden  
27 or to fail to perform any act required by any of the provisions  
28 of this chapter unless any such violation is by this chapter  
29 or other law of this state declared to be a felony. ~~Chapter~~  
30 232 This Act shall have no application in the prosecution  
31 of offenses committed in violation of this chapter which are  
32 punishable by a fine of not more than one hundred dollars,  
33 or by imprisonment for not more than thirty days.

34 Sec. 89. Section three hundred twenty-one G (321G),  
35 subsection fourteen (14), unnumbered paragraph two (2), Code

1 1977, is amended to read as follows:

2 ~~Chapter 232~~ This Act shall have no application in the  
3 prosecution of offenses which are committed in violation of  
4 this chapter, and which are punishable by a fine of not more  
5 than one hundred dollars or by imprisonment for not more than  
6 thirty days.

7 Sec. 90. Section three hundred fifty-six point three  
8 (356.3), Code 1977, is amended by striking the section and  
9 inserting in lieu thereof the following:

10 356.3 JUVENILES CONFINED. A person under the age of  
11 eighteen years shall not be confined in a jail except as  
12 provided in this Act.

13 Sec. 91. Section six hundred A point five (600A.5),  
14 subsections one (1) and two (2), Code 1977, are amended to  
15 read as follows:

16 1. The following persons may petition a juvenile court  
17 for termination of parental rights under this chapter if the  
18 child of the parent-child relationship is born or expected  
19 to be born within one hundred eighty days of the date of the  
20 petition filing:

21 a. A parent or prospective parent of the parent-child  
22 relationship.

23 b. A custodian or guardian of the child.

24 ~~c. Any other person who has knowledge of circumstances~~  
25 ~~indicating that the parent-child relationship should be~~  
26 ~~terminated.~~

27 2. A petition for termination of parental rights shall  
28 be filed with the juvenile court in which the guardian or  
29 custodian of the child resides or the child or the pregnant  
30 woman is domiciled. ~~However,~~ If a juvenile court has made  
31 an order pertaining to a minor child under ~~section two hundred~~  
32 ~~thirty-two point thirty-three (232.33) of the Code~~ division  
33 three (III) of this Act and that order is still in force,  
34 the petition termination proceedings shall be ~~filed with that~~  
35 juvenile court conducted pursuant to the provisions of division

1 four (IV) of this Act.

2 Sec. 92. Section six hundred A point six (600A.6),  
3 subsection one (1), Code 1977, is amended to read as follows:

4 1. A termination of parental rights under this chapter  
5 shall, unless provided otherwise in this section, be  
6 effectuated only after notice has been served on all necessary  
7 parties and these parties have been given an opportunity to  
8 be heard before the juvenile court. A "necessary party"  
9 includes any person whose name, residence, and domicile is  
10 required to be included on the petition under section six  
11 hundred A point five (600 A.5), subsection three (3),  
12 paragraphs "a" and "b". However, a "necessary party" does  
13 not include a natural parent who has been adjudicated to have  
14 raped the other natural parent thereby producing the birth  
15 of the child designated in section six hundred A point five  
16 (600A.5), subsection three (3), paragraph "a".

17 Sec. 93. Section six hundred A point seven (600A.7),  
18 subsection one (1), Code 1977, is amended to read as follows:

19 1. The hearing on termination of parental rights shall  
20 be conducted in accordance to with the provisions of sections  
21 ~~332-27, 232-28, 232-30, and 232-32~~ forty-five (45) through  
22 fifty (50) of this Act and otherwise in accordance with the  
23 rules of civil procedure. Such hearing shall be held not  
24 less than one week after the child is born.

25 Sec. 94. Section six hundred A point eight (600A.8), Code  
26 1977, is amended by striking subsections four (4), five (5),  
27 and six (6).

28 Sec. 95. Section six hundred A point nine (600A.9),  
29 subsections one (1) and two (2), Code 1977, are amended to  
30 read as follows:

31 1. Subsequent to the hearing on termination of parental  
32 rights under this chapter, the juvenile court shall make a  
33 finding of facts and shall order that either:

- 34 a. The petition be dismissed; or,
- 35 ~~b. The petition shall not be granted at that time, but~~

~~1 that conditions indicating that the child is in need of a~~  
~~2 assistance exist, and an order to that effect is issued~~  
~~3 pursuant to section two hundred thirty-two point thirty-three~~  
~~4 (232.33) of the Code, or~~

5 e b. The petition be granted. The juvenile court shall  
6 appoint a guardian and a custodian or a guardian only. An  
7 order issued under this paragraph shall include the finding  
8 of facts. This finding shall enumerate the factual basis  
9 which indicates that the parent-child relationship should  
10 be terminated and shall specify how this finding applies to  
11 the grounds upon which the termination is ordered.

12 2. If an order is issued under paragraph e b of subsection  
13 one (1) of this section, the juvenile court shall retain  
14 jurisdiction to change a guardian or custodian and to allow  
15 a terminated parent to request vacation of the termination  
16 order if:

17 a. The child is not on placement for adoption or a petition  
18 for adoption of the child is not on file; and,

19 b. The guardian consents in writing to the vacation.  
20 The juvenile court shall grant the vacation request if it  
21 is in the best interest of the child.

22 Sec. 96. Chapter two hundred thirty-two (232), Code 1977,  
23 is repealed.

24 Sec. 97. The provisions of this Act shall become effective  
25 January 1, 1979.

26 Sec. 98. The Code editor shall place the interstate  
27 compact, sections two hundred thirty-one point fourteen  
28 (231.14) and two hundred thirty-one point fifteen (231.15)  
29 of the Code, in this Act as division seven (VII), following  
30 division six (VI), appeal. The Code editor shall place the  
31 child abuse mandatory reporting provisions, sections two  
32 hundred thirty-five A point three (235A.3) through two hundred  
33 thirty-five A point eleven (235A.11) of the Code in this Act  
34 as part two (2) of division three (III).

35 EXPLANATION

1 This Bill provides a complete reorganization of the Code  
2 dealing with juveniles and is presented in eight divisions.  
3 The first division sets out definitions, the second details  
4 juvenile delinquency proceedings, including provisions for  
5 taking a child into custody, detention and shelter care,  
6 acceptance of pleas, hearings at various stages of the  
7 proceedings, and dispositions.

8 The third division sets out provisions for child in need  
9 of assistance proceedings and covers generally the same topics  
10 as are included in division two. In addition, it provides  
11 for temporary removal of the child from the home.

12 Division four is concerned with involuntary termination  
13 of the parent-child relationship, division five provides for  
14 family in need of assistance proceedings, and division six  
15 sets out appeal provisions.

16 Division seven groups all the provisions for expenses and  
17 costs relating to court proceedings and care of children.

18 Division eight sets out requirements for handling records  
19 concerning children.

20 Sections 79 through 99 correct related sections of the  
21 Code, repeal present chapter 232 and other sections of the  
22 Code which conflict with this Act, and direct the Code Editor  
23 to place the child abuse reporting provisions of chapter 235A  
24 and the interstate juvenile compact provisions within this  
25 Act.

26 The bill has an effective date of January 1, 1978.

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HOUSE FILE 248

H-5650

- 1 Amend the Senate amendment H-5335, to House File  
2 248, as passed by the House and reprinted, as follows:  
3 1. Page 16, by inserting after line 36 the  
4 following:  
5 "\_\_\_\_\_. Page 74, by inserting after line 12 the  
6 following:  
7 Sec. \_\_\_\_\_. Section ninety-two point seventeen  
8 (92.17), subsection four (4), Code 1977, is amended  
9 to read as follows:  
10 4. A child from working in any occupation or  
11 business operated by his or her parents. For the  
12 purposes of this subsection, "child" and "parents"  
13 include foster children and their foster parents  
14 who are licensed under chapter two hundred thirty-  
15 seven (237) of the Code.  
16 \_\_\_\_\_. Page 74, by inserting after line 34 the  
17 following:  
18 Sec. \_\_\_\_\_. Chapter two hundred thirty-seven (237),  
19 Code 1977, is amended by adding the following new  
20 section:  
21 NEW SECTION. Foster parents licensed by the  
22 state director stand in the same relationship to  
23 their foster children as do natural parents and  
24 their children for purposes of tort actions by or  
25 on behalf of the foster child against the foster  
26 parents."

H-5650 FILED, RULED BY SCHROEDER of Pottawattamie  
NOT GERMANE (p. 980)  
MARCH 14, 1978

HOUSE FILE 248

H-5648

- 1 Amend the Senate amendment H-5335, to House File  
2 248, as passed by the House and reprinted, as  
3 follows:  
4 1. Page 4, by striking lines 40 through 42.

H-5648 FILED, ADOPTED BY MONROE of Des Moines  
MARCH 14, 1978 (p. 979)

HOUSE FILE 248

H-5651

- 1 Amend the Senate amendment H-5335, to House File  
2 248, as passed by the House and reprinted, as follows:  
3 1. Page 15, by inserting after line 19 the  
4 following:  
5 "\_\_\_\_\_. Page 61, by inserting after line 2 the  
6 following new paragraph:  
7 e. That the absence of a parent is due to the  
8 parent's admission or commitment to any institution,  
9 hospital or health facility or due to active service  
10 in the state or federal armed forces."

H-5651 FILED, ADOPTED BY DOYLE of Woodbury  
MARCH 14, 1978 (p. 971)

## HOUSE FILE 248

H-5586

- 1 Amend H-5335, the Senate amendment to House  
 2 File 248, as follows:
- A 3 1. Page 2, by striking lines 16 through 31.  
 4 2. Page 2, by striking lines 36 through 40.
- B 5 3. Page 3, by striking lines 40 through 41.  
 6 4. Page 4, by striking lines 6 through 19.
- C 7 5. Page 4, by striking lines 22 through 25.  
 8 6. Page 4, by striking line 39.
- B 9 7. Page 5, by striking lines 10 through 24.  
 10 8. Page 5, by striking lines 49 through 50.  
 11 9. Page 6, by striking lines 7 through 11.  
 12 10. Page 6, by striking lines 47 through 50.  
 13 11. Page 7, by striking lines 45 through 48.  
 14 12. Page 8, by striking line 40.  
 15 13. Page 9, by striking lines 41 through 42.  
 16 14. Page 12, by striking lines 12 through 14.  
 17 15. Page 12, by striking lines 15 through 18.  
 18 16. Page 13, by striking line 13.
- D 19 17. Page 15, by striking line 49.  
 B 20 18. Page 15, by striking line 50.  
 21 19. Page 16, by striking line 1.

H-5586 FILED *Adopted 3/4* BY JESSE of Polk  
 MARCH 8, 1978 (*p. 977*) SHIMANEK of Jones  
 CLARK of Cerro Gordo  
 LIPSKY of Linn  
 NEWHARD Jones  
 SMALLEY of Polk  
 BRANSTAD of Winnebago  
 CONLON of Muscatine  
 DYRLAND of Clayton

## HOUSE FILE 248

H-5587

- 1 Amend H-5335, the Senate amendment to House File  
 2 248, as follows:
- 3 1. Page 1, line 12, by inserting after the word  
 4 "time." the words "Absence by a parent due to the  
 5 parent's admission or commitment to any institution,  
 6 hospital or health facility or due to active service  
 7 in the state or federal armed forces shall not alone  
 8 constitute abandonment."

H-5587 FILED *w/d 3/14* BY DOYLE of Woodbury  
 MARCH 8, 1978 (*p. 980*)

## HOUSE FILE 248

H-5594

- 1 Amend amendment H-5586, to Senate amendment H-5335,  
 2 to House File 248, as passed by the House and reprinted,  
 3 as follows:
- 4 1. Page 1, line 6, by striking the numerals "19"  
 5 and inserting in lieu thereof the numeral "8".  
 6 2. Page 1, by inserting after line 6 the following:  
 7 "\_\_\_\_\_. Page 4, by striking lines 9 through 19."

H-5594 FILED *Lost 3/14* BY PELTON of Clinton  
 MARCH 8, 1978 (*p. 976*)

HOUSE FILE 248

H-5556

- 1 Amend H-5335, the Senate amendment to House File  
2 248, as follows:  
3 1. Page 2, by striking lines 16 through 31.  
4 2. Page 2, by striking lines 36 through 40.  
5 3. Page 4, by striking lines 6 through 19.  
6 4. Page 4, by striking lines 22 through 25.  
7 5. Page 4, by striking line 39.  
8 6. Page 5, by striking lines 10 through 24.  
9 7. Page 5, by striking lines 49 and 50.  
10 8. Page 6, by striking lines 7 through 11.  
11 9. Page 6, by striking lines 47 through 50.  
12 10. Page 7, by striking lines 45 through 48.  
13 11. Page 8, by striking line 40.  
14 12. Page 12, by striking lines 15 through 18.  
15 13. Page 15, by striking line 49.

H-5556 FILED *w/d 3/14*  
MARCH 6, 1978 (*p. 974*)

BY JESSE of Polk  
SHIMANEK of Jones  
CLARK of Cerro Gordo  
LIPSKY of Linn  
NEWHARD of Jones

HOUSE FILE 248

H-5557

- 1 Amend H-5335, the Senate amendment to House File  
2 248, as follows:  
3 1. Page 2, by striking lines 16 through 31.  
4 2. Page 2, by striking lines 36 through 40.  
5 3. Page 4, by striking lines 6 through 19.  
6 4. Page 4, by striking lines 22 through 25.  
7 5. Page 4, by striking line 39.  
8 6. Page 5, by striking lines 10 through 24.  
9 7. Page 5, by striking lines 49 and 50.  
10 8. Page 6, by striking lines 7 through 11.  
11 9. Page 6, by striking lines 47 through 50.  
12 10. Page 7, by striking lines 45 through 48.  
13 11. Page 8, by striking line 40.  
14 12. Page 12, by striking lines 15 through 18.  
15

H-5557 FILED *w/d 3/14*  
MARCH 6, 1978 (*p. 974*)

BY JESSE of Polk  
GENTLEMAN of Polk  
LIPSKY of Linn  
NEWHARD of Jones  
CLARK of Cerro Gordo  
SHIMANEK of Jones

HOUSE FILE 248

H-5526

1 Amend the Senate amendment, H-5335, to House File  
2 248, as amended, passed and reprinted by the House  
3 as follows:  
4 1. Page 16, by inserting after line 36 the  
5 following:  
6 "\_\_\_\_\_. Page 74, by inserting after line 12 the  
7 following new section:  
8 "Sec. \_\_\_\_\_. Section twenty-five A point two (25A.2),  
9 subsection three (3), Code 1977, is amended to read  
10 as follows:  
11 3. "Employee of the state" includes any one or  
12 more officers, agents, or employees of the state or  
13 any state agency, including members of the general  
14 assembly, and persons acting on behalf of the state  
15 or any state agency in any official capacity,  
16 temporarily or permanently in the service of the state  
17 of Iowa, whether with or without compensation. Persons  
18 designated as foster parents under this Act are to  
19 be considered employees of the state. Professional  
20 personnel, including medical doctors, osteopathic  
21 physicians and surgeons, osteopathic physicians,  
22 optometrists and dentists, who render services to  
23 patients and inmates of state institutions under the  
24 jurisdiction of the department of social services  
25 are to be considered employees of the state, whether  
26 such personnel are employed on a full-time basis or  
27 render such services on a part-time basis on a fee  
28 schedule or arrangement, but shall not include any  
29 contractor doing business with the state."

H-5526 FILED *Red version* BY MILLER of Buchanan  
MARCH 2, 1978 *3/14 (p. 979)*

HOUSE FILE 248

H-5527

1 Amend the Senate amendment H-5335, to House File  
2 248, as passed by the House and reprinted, as follows:  
3 1. Page 3, by inserting after line 6 the following:  
4 "\_\_\_\_\_. Page 7, line 24, by inserting after the  
5 word "natural" the following: ", foster".

H-5527 FILED *w/d* *3/14 (978)* BY MILLER of Buchanan  
MARCH 2, 1978

H-5335

- 1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:
- 3 1. Page 1, line 7, by striking the words "state  
4 when" and inserting in lieu thereof the words "state.  
5 When".
- 6 2. Page 1, by striking lines 11 through 17.
- 7 3. Page 1, line 26, by striking the words "carried  
8 out" and inserting in lieu thereof the word  
9 "evidenced".
- 10 4. Page 1, by striking lines 28 through 34 and  
11 inserting in lieu thereof the words "any particular  
12 period of time."
- 13 5. Page 2, by striking lines 3 and 4 and inserting  
14 in lieu thereof the following:
- 15 "4. "Child" means a person under eighteen years  
16 of age."
- 17 6. Striking page 2, line 5, through page 3, line  
18 11 and inserting in lieu thereof the following:
- 19 "5. "Child in need of assistance" means an  
20 unmarried child:
- 21 a. Whose parent, guardian or other custodian has  
22 abandoned the child.
- 23 b. Whose parent, guardian or other custodian has  
24 physically abused or neglected the child, or is  
25 imminently likely to abuse or neglect the child.
- 26 c. Who has suffered harmful effects as a result  
27 of:
- 28 (1) Conditions created by the child's parent,  
29 guardian, custodian; or
- 30 (2) The failure of the child's parent, guardian,  
31 or custodian to exercise a reasonable degree of care  
32 in supervising the child.
- 33 d. Who has been sexually abused by his or her  
34 parent, guardian, custodian or other member of the  
35 household in which the child resides.
- 36 e. Who is in need of medical treatment to cure,  
37 alleviate, or prevent serious physical injury or  
38 illness and whose parent, guardian or custodian is  
39 unwilling or unable to provide such treatment.
- 40 f. Who is in need of treatment to cure or alleviate  
41 serious mental illness or disorder, or emotional  
42 damage as evidenced by severe anxiety, depression,  
43 withdrawal or untoward aggressive behavior toward  
44 self or others and whose parent, guardian, or custodian  
45 is unwilling or unable to provide such treatment.
- 46 g. Whose parent, guardian, or custodian fails  
47 to exercise a minimal degree of care in supplying  
48 the child with adequate food, clothing or shelter  
49 or refuses other means made available to provide such  
50 essentials.

1 n. Who has committed a delinquent act as a result  
2 of pressure, guidance, or approval from a parent,  
3 guardian, or custodian.

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

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

13 k. Whose parent, guardian, or other custodian  
14 for good cause desires to be relieved of his or her  
15 care and custody.

16 l. Who is without proper parental care because  
17 of the emotional, mental, or physical disability,  
18 or state of immaturity of his or her parents, guardian,  
19 or other custodian.

20 m. Who absents himself, or herself from his or  
21 her residence:

22 (1) Without just cause for such absence, and;

23 (2) Without the consent of the parent, guardian  
24 or custodian; and

25 (3) In such a manner as to become exposed to  
26 conditions harmful to his or her development or  
27 welfare.

28 n. Who refuses to attend school regularly as  
29 required by the compulsory education laws of this  
30 state although having been offered by his or her  
31 school system every reasonable opportunity to do so."

32 7. Page 3, by inserting after line 11 the following  
33 new paragraph:

34 "j. Who for good cause desires to have his or  
35 her parents relieved of his or her care and custody."

36 8. Page 3, by inserting after line 11 the following  
37 new paragraph:

38 "j. Whose parent, guardian, or other custodian  
39 for good cause desires to be relieved of his or her  
40 care and custody."

41 9. Page 4, by striking lines 15 and 16.

42 10. Page 5, lines 2, 3, 12, 14, 19 and 24, by  
43 striking the word "minor".

44 11. Page 6, line 12, by adding after the word  
45 "complaints" the words "by an intake officer".

46 12. Page 6, line 16, by striking the word  
47 "authorized" and inserting in lieu thereof the words  
48 "or other officer appointed".

49 13. Page 6, line 29, by striking the word "de-  
50 linquent" and inserting in lieu thereof the words

- 1 "to have committed a delinquent act".
- 2 14. Page 7, by striking lines 11 and 12 and  
3 inserting in lieu thereof the following: "facility  
4 in which children may be placed pursuant to a  
5 dispositional order of the court made in accordance  
6 with the provisions of this Act".
- 7 15. Page 8, line 11, by striking the word  
8 "delinquent" and inserting in lieu thereof the words  
9 "to have committed a delinquent act".
- 10 16. Page 8, by striking lines 18 through 22.
- 11 17. Page 8, line 33, by striking the word  
12 "delinquent" and inserting in lieu thereof the words  
13 "to have committed a delinquent act".
- 14 18. Page 9, line 19, by inserting after the word  
15 "adult." the words "The taking into custody of a child  
16 is subject to all constitutional and statutory  
17 protections which are afforded an adult upon arrest."
- 18 19. Page 9, by striking line 23 and inserting  
19 in lieu thereof the following: "the divestment by  
20 the court of the parent's and child's privileges,".
- 21 20. Page 9, line 27, by striking the words "be  
22 delinquent" and inserting in lieu thereof the words  
23 "have committed a delinquent act".
- 24 21. Page 10, line 1, by striking the words "be  
25 a delinquent" and inserting in lieu thereof the words  
26 "have committed a delinquent act".
- 27 22. Page 10, line 7, by striking the words "does  
28 not occur" and inserting in lieu thereof the word  
29 "occurs".
- 30 23. Page 10, line 6, by striking the words "more  
31 than" and inserting in lieu thereof the words "less  
32 than".
- 33 24. Page 10, line 11, by striking the words "more  
34 than" and inserting in lieu thereof the words "less  
35 than".
- 36 25. Page 10, line 15, by inserting after the word  
37 and figure "six (106)," the following: "one hundred  
38 nine (109), one hundred ten (110), one hundred ten  
39 A (110A),".
- 40 26. Page 10, line 15, by striking the words and  
41 figure "one hundred twenty-three (123),".
- 42 27. Page 10, line 18, by inserting after the word  
43 "curfew" the words "or traffic".
- 44 28. Page 10, line 22 by striking the word  
45 "nonindictable" and inserting in lieu thereof the  
46 word "simple".
- 47 29. Page 10, by striking lines 24 through 26.
- 48 30. Page 11, line 3, by striking the words "of  
49 transfer" and inserting in lieu thereof the words  
50 "of transfer,".

- 1 31. Page 11, line 4, by striking the words "to  
2 be or".
- 3 32. Page 11, line 5, by striking the words "been  
4 a delinquent child" and inserting in lieu thereof  
5 the words "committed a delinquent act".
- 6 33. Page 11, lines 12 and 13, by striking the  
7 words "The juvenile court shall waive jurisdiction  
8 upon motion by the child."
- 9 34. Page 12, by striking lines 14 through 19 and  
10 inserting in lieu thereof the following:  
11 "A child shall have the right to be represented  
12 by counsel at the following stages of the proceedings  
13 within the jurisdiction of the juvenile court under  
14 division two (II) of this Act:  
15 a. From the time the child is taken into custody  
16 for any alleged delinquent act that constitutes a  
17 serious or aggravated misdemeanor or felony under  
18 the Iowa criminal code, and during any questioning  
19 thereafter by a peace officer or probation officer."  
20 35. Page 12, line 26, by striking the word "thirty"  
21 and inserting in lieu thereof the word "twenty".
- 22 36. Page 12, line 32, by striking the words "the  
23 child's right".
- 24 37. Page 12, by striking lines 33 through 35.
- 25 38. Page 13, by striking lines 1 through 4.
- 26 39. Page 14, by inserting after line 2 the  
27 following new subsection:  
28 "6. Nothing in this section shall be construed  
29 to prevent the child or the child's parent, guardian  
30 or custodian from retaining counsel to represent the  
31 child in proceedings under division two (II) of this  
32 Act in which the alleged delinquent act constitutes  
33 a simple misdemeanor under the Iowa Code."  
34 40. Page 14, line 8, by striking the word  
35 "delinquency".
- 36 41. Page 14, line 9, by inserting after the word  
37 "proceedings" the words "under Division two (II) of  
38 this Act".
- 39 42. Page 14, by striking lines 20 through 22.
- 40 43. Page 14, by striking lines 30 through 32 and  
41 inserting in lieu thereof the words "custodian as  
42 soon as possible. Unless the".
- 43 44. Page 15, line 6, by striking the words "and  
44 retained".
- 45 45. Page 15, line 10, by striking the word "and"  
46 and inserting in lieu thereof the word "or".
- 47 46. Page 15, line 11, by striking the words "or  
48 remain".
- 49 47. Page 15, line 13, by striking the words "hold  
50 the child until his or her" and inserting in lieu

- 1 thereof the words "provide care, shelter and  
2 supervision until the child's".
- 3 48. Page 15, line 16, by striking the words "hold  
4 the child for" and inserting in lieu thereof the words  
5 "provide care, shelter and supervision prior to the  
6 child's".
- 7 49. Page 16, line 1, by striking the words "himself  
8 or herself" and inserting in lieu thereof the words  
9 "the child".
- 10 50. Page 16, line 1, by striking the word  
11 "another." and inserting in lieu thereof the following:  
12 "another; or
- 13 (3) There is a serious risk that the child if  
14 released may commit serious damage to the property  
15 of others."
- 16 51. Page 16, by inserting after line 1 the  
17 following new subparagraph:  
18 "e. There is probable cause to believe the child  
19 has run away from his or her residence and would not  
20 voluntarily remain at a shelter care facility."
- 21 52. Page 16, by inserting after line 1 the  
22 following new paragraph:  
23 "f. The child has previously run away on two  
24 separate occasions from a shelter care facility."
- 25 53. Page 16, by striking lines 2 through 5.
- 26 54. Page 16, by striking lines 19 through 21 and  
27 inserting in lieu thereof the following:  
28 "3. No child shall be detained in a facility  
29 intended or used for the detention of adults unless  
30 there is probable cause to believe the child has  
31 committed a delinquent act. No child who is alleged  
32 to have committed a delinquent act shall be detained  
33 in a facility intended or used for the detention of  
34 adults for a period in excess of 12 hours without  
35 a court order."
- 36 55. Page 17, by striking lines 16 through 21 and  
37 inserting in lieu thereof the following new paragraph:  
38 "c. A room in a facility intended or used for  
39 the detention of adults if there is probable cause  
40 to believe that the child has committed a delinquent  
41 act. A child who is alleged to have committed a  
42 delinquent act may be detained in a facility intended  
43 or used for the detention of adults for a period of  
44 up to 12 hours without a written order of a judge  
45 or magistrate if:"
- 46 56. Page 17, line 25, by striking the word  
47 "extreme" and inserting in lieu thereof the word  
48 "serious".
- 49 57. Page 17, line 25, by inserting after the word  
50 "public" the words "or to the property of others".

1 58. Page 17, line 26, by striking the word "subsec-  
2 tions" and inserting in lieu thereof the word  
3 "paragraphs".

4 59. Page 17, line 27, by striking the word  
5 "section" and inserting in lieu thereof the word  
6 "subsection".

7 60. Page 18, line 1, by striking the word  
8 "children" and inserting in lieu thereof the words  
9 "a child awaiting disposition to a placement ordered  
10 under section thirty-one (31), subsection four (4),  
11 paragraph e, of this Act".

12 61. Page 18, line 7, by striking the words "a  
13 child to be a delinquent" and inserting in lieu thereof  
14 the words "that a child has committed a delinquent  
15 act".

16 62. Page 18, by striking lines 11 through 23.

17 63. Page 19, lines 4 and 5, by striking the word  
18 and figure "sixteen (16)" and inserting in lieu thereof  
19 the word and figure "fifteen (15)".

20 64. Page 19, line 14, by inserting after the word  
21 "counsel" the words "in accordance with section six  
22 (6) of this Act".

23 65. Page 19, by inserting after line 15 the follow-  
24 ing:

25 " \_\_\_\_\_. The intake officer, after consultation with  
26 the county attorney when necessary, shall determine  
27 whether the complaint is legally sufficient for the  
28 filing of a petition. A complaint shall be deemed  
29 legally sufficient for the filing of a petition if  
30 the facts as alleged are sufficient to establish the  
31 jurisdiction of the court and probable cause to believe  
32 that the child is a delinquent. If the intake officer  
33 determines that the complaint is legally sufficient  
34 to support the filing of a petition, the officer shall  
35 determine whether the interests of the child and the  
36 public will best be served by the dismissal of the  
37 complaint, the informal adjustment of the complaint,  
38 or the filing of a petition."

39 66. Page 19, line 26, by striking the word and  
40 figure "fifteen (15)" and inserting in lieu thereof  
41 the word and figure "fourteen (14)".

42 67. Page 19, line 30, by striking the word "may"  
43 and inserting in lieu thereof the word "shall".

44 68. Page 19, lines 31 and 32, by striking the  
45 word and figure "sixteen (16)" and inserting in lieu  
46 thereof the word and figure "fifteen (15)".

47 69. Page 20, line 33, by inserting after the word  
48 "into." the following sentence: "The informal  
49 adjustment shall not be admissible in proceedings  
50 on such a petition."

- 1 70. Page 21, line 3, by striking the words "every  
2 six months" and inserting in lieu thereof the word  
3 "annually".
- 4 71. Page 21, line 14, by striking the words "is  
5 a delinquent under this Act" and inserting in lieu  
6 thereof the words "has committed a delinquent act".
- 7 72. Page 21, line 15, by inserting after the word  
8 "alleging" the word "that".
- 9 73. Page 21, line 16, by striking the words "to  
10 be delinquent" and inserting in lieu thereof the words  
11 "has committed a delinquent act".
- 12 74. Page 21, line 18, by inserting after the word  
13 "alleging" the word "that".
- 14 75. Page 21, line 19, by striking the words "to  
15 be delinquent" and inserting in lieu thereof the words  
16 "has committed a delinquent act".
- 17 76. Page 22, line 28, by inserting after the word  
18 "filed" the words "the court shall set a time for  
19 an adjudicatory hearing".
- 20 77. Page 22, by striking line 30.
- 21 78. Page 23, lines 2 and 10, by striking the word  
22 and figure "five (5)" and inserting in lieu thereof  
23 the word and figure "six (6)".
- 24 79. Page 23, by striking line 3 and inserting  
25 in lieu thereof the following:  
26 "2. Notice of the pendency of the".
- 27 80. Page 23, line 4, by inserting after the word  
28 "case" the words "shall be".
- 29 81. Page 23, line 6, by striking the words "The  
30 court shall also".
- 31 82. Page 23, line 7, by striking the words "have  
32 notice" and inserting in lieu thereof the words "Notice  
33 shall also be".
- 34 83. Page 24, by striking lines 23 through 29 and  
35 inserting in lieu thereof the following: "At any  
36 time during the proceedings, the court, on the motion  
37 of any of the parties or upon the court's own motion,  
38 may exclude the public from hearings under this  
39 division if the court determines that the possibility  
40 of damage or harm to the juvenile outweighs the  
41 public's interest in having an open hearing. Upon  
42 closing the hearing to the public, the court may admit  
43 those persons who have direct interest in the case  
44 or in the work of the court."
- 45 84. Page 24, line 27, by striking the word "shall"  
46 and inserting in lieu thereof the word "may".
- 47 85. Page 24, line 28, by striking the words "in  
48 its discretion".
- 49 86. Page 25, by inserting after line 10 the follow-  
50 ing new section:

Sec. \_\_\_\_ NEW SECTION. CONTINUANCES.

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."

87. Page 25, line 24, by striking the words "upon their demand".

88. Page 26, lines 2, 4 and 5, by striking the word "defendant" and inserting in lieu thereof the word "child".

89. Page 26, line 15, by striking the word "indicate" and inserting in lieu thereof the word "state".

90. Page 29, line 35, by striking the words "that alleges" and inserting in lieu thereof the words "which alleges that".

91. Page 30, line 1, by striking the words "to be delinquent" and inserting in lieu thereof the words "has committed a delinquent act".

92. Page 30, line 3, by inserting after the word "attorney" the words "or the child".

93. Page 30, line 4, by striking the words "jurisdiction over" and lines 5 and 6 and inserting in lieu thereof the word "jurisdiction."

94. Page 30, line 7, by striking the words "without a jury".

95. Page 30, line 12, by striking the word and figure "eighteen (18)" and inserting in lieu thereof the word and figure "seventeen (17)".

96. Page 30, line 14, by striking the word and figure "eighteen (18)" and inserting in lieu thereof the word and figure "seventeen (17)".

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

98. Page 31, line 3, by striking the word "delinquent" and inserting in lieu thereof the words "to have committed a delinquent act".

99. Page 31, line 23, by striking the word "child" and inserting in lieu thereof the word "child,"..

100. Page 31, by striking lines 26 through 31.

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

102. Page 33, line 34, by striking the words "be delinquent" and inserting in lieu thereof the words "have committed a delinquent act".

103. Page 34, by striking lines 13 through 19 and inserting in lieu thereof the following:

"6. Statements or other evidence derived directly

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

- 10 a. Opportunity for the child to consult with a  
11 parent, guardian, custodian, lawyer or other adult.
- 12 b. The age of the child.
- 13 c. The child's level of education.
- 14 d. The child's level of intelligence.
- 15 e. Whether the child was advised of his or her  
16 constitutional rights.
- 17 f. Length of time the child was held in shelter  
18 care or detention before making the statement in  
19 question.
- 20 g. The nature of the questioning which elicited  
21 the statement.
- 22 h. Whether physical punishment such as deprivation  
23 of food or sleep was used upon the child during the  
24 shelter care, detention, or questioning.

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

28 104. Page 34, lines 30 and 31, by striking the  
29 words "engaged in delinquent conduct" and inserting  
30 in lieu thereof the words "committed a delinquent  
31 act".

32 105. Page 35, line 5, by striking the words "be  
33 a delinquent child" and inserting in lieu thereof  
34 the words "have committed a delinquent act".

35 106. Page 35, by striking lines 10 through 14.

36 107. Page 35, line 17, by striking the word  
37 "petition" and inserting in lieu thereof the word  
38 "matter".

39 108. Page 35, line 30, by striking the words:  
40 "except as otherwise provided".

41 109. Page 36, by striking lines 4 and 5 and  
42 inserting in lieu thereof the word "child."

43 110. Page 36, line 9, by inserting after the word  
44 "hearing" the words "which may be simultaneous with  
45 the adjudicatory hearing".

46 111. Page 36, by inserting after line 25 the  
47 following unnumbered paragraph:

48 "An examination shall be conducted on an outpatient  
49 basis unless the court, the child's counsel and the  
50 parent, guardian or custodian agree that it is

1 necessary the child be committed to a suitable  
2 hospital, facility or institution for the purpose  
3 of examination. Commitment for examination shall  
4 not exceed thirty days and the civil commitment  
5 provisions of chapter two hundred twenty-nine (229)  
6 of the Code shall not apply."

7 112. Page 36, line 30, by striking the word  
8 "petition" and inserting in lieu thereof the word  
9 "matter".

10 113. Page 37, line 2, by inserting after the word  
11 "ILL" words "OR MENTALLY RETARDED".

12 114. Page 37, by striking line 7 and inserting  
13 in lieu thereof the words "guardian to initiate civil  
14 commitment proceedings in the juvenile court. Such  
15 proceedings shall adhere to the requirements of chapter  
16 two hundred".

17 115. Page 37, by striking line 13 and inserting  
18 in lieu thereof the words "initiate civil commitment  
19 proceedings in the juvenile court. Such proceedings  
20 shall adhere to the requirements of chapter two hundred  
21 twenty-two".

22 116. Page 37, line 16, by striking the words "a  
23 delinquent" and inserting in lieu thereof the words  
24 "to have committed a delinquent act".

25 117. By striking page 37 line 18 through page  
26 40, line 8, and inserting in lieu thereof the  
27 following:

28 "Sec. 31. NEW SECTION. DISPOSITION OF CHILD  
29 FOUND TO HAVE COMMITTED A DELINQUENT ACT.

30 1. Pursuant to a hearing as provided in section  
31 twenty-nine (29) of this Act, the court shall enter  
32 the least restrictive dispositional order appropriate  
33 in view of the seriousness of the delinquent act,  
34 the child's culpability as indicated by the  
35 circumstances of the particular case, the age of the  
36 child and the child's prior record. The order shall  
37 specify the duration and the nature of the disposition,  
38 including the type of residence or confinement ordered  
39 and the individual, agency, department or facility  
40 in whom custody is vested.

41 2. The dispositional orders which the court may  
42 enter are as follows:

43 a. An order prescribing a work assignment of value  
44 to the state or to the public, or prescribing  
45 restitution consisting of monetary payment or a work  
46 assignment of value to the victim. Such order may  
47 be the sole disposition or may be included as an  
48 element in other dispositional orders.

49 b. An order placing the child on probation and  
50 releasing the child to his or her parent, guardian

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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 seventy-three (73), subsection two (2) of this Act 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 thirty-three (33) of this Act, 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 social 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.

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction of the court for the purposes of section thirty-three (33) of this Act, to the commissioner of the department of social services for purposes of placement in the Iowa juvenile home at Toledo, the Iowa training school for boys, the Iowa training school for girls, or other facility provided that:

(1) The child is at least twelve years of age; and

(2) The court finds such placement to be in the best interests of the child or necessary to the protection of the public.

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 two hundred twenty-nine (229) of the Code.

3. 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

1 the child's residence is established. The court to  
2 which the jurisdiction of the child is transferred  
3 shall have the same powers with respect to the child  
4 as if the petition had originally been filed in that  
5 court.

6 4. When the court enters an order transferring  
7 the legal and physical custody of a child to an agency,  
8 facility, department or institution, the court shall  
9 transmit its order, its finding, and a summary of  
10 its information concerning the child to such agency,  
11 facility, department or institution."

12 118. Page 37, line 25, by striking the word  
13 "assignments" and inserting in lieu thereof the word  
14 "assignments,".

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

19 120. Page 40, lines 18 and 19, by striking the  
20 words "for which the child is alleged to be delinquent"  
21 and inserting in lieu thereof the words "which the  
22 child has been found by the court to have committed".

23 121. Page 40, line 23, by striking the word and  
24 figure "three (3)" and inserting in lieu thereof the  
25 word and figure "four (4)".

26 122. Page 40, by striking line 35 and lines 1  
27 and 2, page 41.

28 123. Page 41, line 10, by inserting after the  
29 word "paragraph" the words "a or".

30 124. Page 41, line 21, by striking the word "para-  
31 graphs" and inserting in lieu thereof the word  
32 "paragraph".

33 125. Page 41, by striking line 22 and inserting  
34 in lieu thereof the following: "c, of this Act, the  
35 court may grant a motion of".

36 126. Page 41, line 23, by striking the words "or  
37 agency".

38 127. Page 41, line 27 by striking the word "the"  
39 and lines 28 and 29 and inserting in lieu thereof  
40 the following: "all parties, and a hearing shall  
41 be held at the request of any party."

42 128. Page 41, by inserting after line 29 the  
43 following new paragraph:

44 "Notwithstanding the dispositional order, an agency,  
45 facility, or institution to whom custody has been  
46 granted under section thirty-one (31), subsection  
47 four (4), paragraphs c, d, or e, of the Code may  
48 terminate the order and discharge the child, modify  
49 the order by imposing less restrictive conditions,  
50 or vacate the order and substitute a less restrictive

- 1 order without leave of court."  
2 129. Page 42, line 25, by striking the word and  
3 figure "eighteen (18)" and inserting in lieu thereof  
4 the word and figure "seventeen (17)".  
5 130. Page 44, line 7, by striking the words "or  
6 any other".  
7 131. Page 45, line 16, by striking the word and  
8 figure "nine (39)" and inserting in lieu thereof the  
9 word and figure "eight (38)".  
10 132. Page 45, line 23, by striking the word and  
11 figure "thirty-nine (39)" and inserting in lieu thereof  
12 the word and figure "thirty-eight (38)".  
13 133. Page 46, by striking lines 5 through 7.  
14 134. Page 46, by inserting after line 25 the  
15 following new section:  
16 "Sec. \_\_\_\_ NEW SECTION. RETENTION AND SHELTER  
17 CARE OF RUNAWAY.  
18 1. A peace officer may remove a child to a shelter  
19 facility when:  
20 a. that officer has reasonable grounds to believe  
21 that the child has run away from his or her parents,  
22 guardian or other custodian; and  
23 b. the child is found in surroundings or conditions  
24 which endanger the health or welfare of the child.  
25 2. When a peace officer removes a child to shelter  
26 care under the provisions of subsection one (1) of  
27 this section, that officer shall notify the child's  
28 parent, guardian or custodian as soon as possible.  
29 3. A child placed in shelter care under this  
30 section may be sheltered for up to forty-eight hours  
31 until a parent, guardian, or custodian assumes custody,  
32 or until other provisions are arranged for care of  
33 the child."  
34 135. Page 47, line 2, by striking the word and  
35 figure "seventy-two (72)" and inserting in lieu thereof  
36 the word and figure "seventy-three (73)".  
37 136. Page 47, line 14, by striking the word  
38 "should" and inserting in lieu thereof the word "may".  
39 137. Page 48, line 1, by striking the word and  
40 figure "seventeen (17)" and inserting in lieu thereof  
41 the word and figure "sixteen (16)".  
42 138. Page 48, line 3, by striking the word and  
43 figure "seventeen (17)" and inserting in lieu thereof  
44 the word and figure "sixteen (16)".  
45 139. Page 48, line 10, by striking the word and  
46 figure "eighteen (18)" and inserting in lieu thereof  
47 the word and figure "seventeen (17)".  
48 140. Page 48, line 32, by striking the word and  
49 figure "nineteen (19)" and inserting in lieu thereof  
50 the word and figure "eighteen (18)".

1 / 141. Page 49, line 6, by striking the words "or  
2 in addition to".

3 / 142. Page 49, line 9, by striking the words  
4 "additional or".

5 / 143. Page 49, line 12, by inserting after the  
6 word "or" the words "electronic or".

7 / 144. Page 50, line 30, by striking the words  
8 "privilege attaching to confidential" and inserting  
9 in lieu thereof the words "prohibition upon  
10 admissibility of".

11 / 145. Page 51, line 25, by inserting after the  
12 words "direct the" the words "probation officer,".

13 / 146. Page 51, line 26, by striking the word  
14 "licnesed" and inserting in lieu thereof the word  
15 "licensed".

16 / 147. Page 52, by inserting after line 13 the  
17 following new paragraph:

18 "The hearing required by this section may be held  
19 simultaneously with the adjudicatory hearing."

20 / 148. Page 52, by striking lines 23 and 24.

21 / 149. Page 54, line 7, by inserting after the word  
22 "make" the words "not more than two".

23 / 150. Page 54, by inserting after line 19 the  
24 following:

25 "2. After a dispositional hearing the court may  
26 enter an order transferring the guardianship of the  
27 court for the purposes of subsection five (5) of this  
28 section, to the commissioner of the department of  
29 social services for the purposes of placement in the  
30 Iowa Juvenile Home at Toledo."

31 / 151. Page 54, line 32, by inserting after the  
32 figure "4." the following: "In any order transferring  
33 custody to the department or an agency, or in orders  
34 pursuant to a custody order, the court may prescribe  
35 the type of placement which will serve the best  
36 interests of the child, and shall prescribe the means  
37 by which the placement shall be monitored by the  
38 court."

39 / 152. Page 54, line 34, by striking the word  
40 "should" and inserting in lieu thereof the word  
41 "shall".

42 / 153. Page 54, line 35, by striking the word  
43 "should" and inserting in lieu thereof the word  
44 "shall".

45 / 154. Page 55, line 17, by striking the word and  
46 figure "six (6)" and inserting in lieu thereof the  
47 word and figure "five (5)".

48 / 155. Page 56, line 1, by inserting after the word  
49 "months" the words "except with leave of court for  
50 good cause shown".

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156. Page 56, line 14, by striking the word and figure "eighteen (18)" and inserting in lieu thereof the word and figure "seventeen (17)".

157. Page 56, by striking lines 31 through 33 and inserting in lieu thereof the word "Act."

158. Page 57, line 28, by striking the word and figure "forty-one (41)" and inserting in lieu thereof the word and figure "forty-two (42)".

159. Page 57, line 29, by striking the word "department" and inserting in lieu thereof the word "department,".

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

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

162. Page 59, lines 23 and 27, by inserting after the word "physically" the words "or sexually".

163. Page 61, by striking lines 12 through 14 and inserting in lieu thereof the following:

"If the court terminates the parental rights of the child's natural or adoptive parents, the court shall transfer the guardianship".

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

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

166. Page 62, line 23, by striking the words "or any other".

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

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

169. Page 63, line 30, by striking the word "unsuccessfully".

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

171. Page 64, line 6, by striking the word "services" and inserting in lieu thereof the word "counseling".

172. Page 64, by striking lines 25 through 31.

173. Page 65, by striking lines 3 through 6.

1 174. Page 69, by striking lines 11 through 15.

2 175. Page 69, by inserting after line 22 the  
3 following new subsection:

4 "2. Official juvenile court records in cases  
5 alleging delinquency shall be public records."

6 176. Page 69, line 23, by inserting after the  
7 word "records" the words "in all cases except those  
8 alleging delinquency".

9 177. Page 69, line 24, by striking the word "may"  
10 and inserting in lieu thereof the word "shall".

11 178. Page 70, line 12, by striking the words "and  
12 legitimate".

13 179. Page 71, line 11, by striking the words and  
14 figure "seven hundred forty-nine B (749B)" and  
15 inserting in lieu thereof the words and figure "six  
16 hundred ninety-two (692)" and by inserting after the  
17 word "Code" the word "Supplement".

18 180. Page 71, line 35, by striking the word and  
19 figure "seven (7)" and inserting in lieu thereof the  
20 word and figure "nine (9)".

21 181. Page 73, line 6, by striking the words and  
22 figures "seventy-four (74) and seventy-six (76)" and  
23 inserting in lieu thereof the words and figures  
24 "seventy-five (75) and seventy-seven (77)".

25 182. Page 73, line 32, by striking the words "may  
26 properly" and inserting in lieu thereof the word  
27 "shall".

28 183. Page 73, line 33, by inserting after the  
29 word "exist" the words ", except when such reply is  
30 made to an inquiry pursuant to subsection six (6)  
31 of this section".

32 184. Page 74, by striking line 10 and inserting  
33 in lieu thereof the words and figures "five (75)  
34 through seventy-eight (78)".

35 185. Page 74, line 11, by striking the word and  
36 figure "seven (77)".

37 186. Page 75, by inserting after line 23 the  
38 following new sections:

39 "Sec. \_\_\_\_\_. Section two hundred thirty-five A  
40 point two (235A.2), Code 1977, is amended by adding  
41 the following new subsection:

42 NEW SUBSECTION. "Sexual abuse" means sexual abuse  
43 as defined in division nine (IX) of the Iowa criminal  
44 code, or lascivious acts with a child as defined in  
45 division nine (IX) of the Iowa criminal code.

46 Sec. \_\_\_\_\_. Section two hundred thirty-five A point  
47 three (235A.3), Code 1977, is amended to read as  
48 follows:

49 235A.3 MANDATORY AND PERMISSIVE REPORTERS.

50 1. The following classes of persons shall make

1 a report, as provided in section 235A.4, of cases  
2 of child abuse and, sexual abuse of a child, willful  
3 neglect and child abuse suffered by a child during  
4 the care or custody of the child by a person not  
5 listed in section 235A.2, subsection 2:

6 a. Every health practitioner who examines, attends,  
7 or treats a child and who believes or has reason to  
8 believe that the child has had physical injury  
9 inflicted on the child as a result of abuse or has  
10 suffered sexual abuse. If, however, the health  
11 practitioner examines, attends, or treats the child  
12 as a member of the staff of a hospital or similar  
13 institution, the examining health practitioner shall  
14 immediately notify and give complete information to  
15 the person in charge of the institution or the health  
16 practitioner's designated agent and the person in  
17 charge of the institution or designated agent shall  
18 make the report.

19 b. Every social worker under the jurisdiction  
20 of the department of social services, public or private  
21 health care facility as defined in section 135C.1,  
22 certified psychologist, certificated school employee,  
23 employee of a licensed day care facility, member of  
24 the staff of a mental health center, or peace officer,  
25 who, in the course of employment, examines, attends,  
26 counsels or treats a child and believes or has reason  
27 to believe that the child has had physical injury  
28 inflicted on the child as a result of abuse or has  
29 suffered sexual abuse. Whenever such person is  
30 required to report under this section as a member  
31 of the staff of a public or private institution,  
32 agency or facility, that person shall immediately  
33 notify the person in charge of such institution,  
34 agency or facility, or that person's designated agent  
35 and the person in charge of the institution, agency,  
36 or facility, or the designated agent shall make the  
37 report.

38 2. Any other person who believes that a child  
39 has had received physical injury inflicted-upon-him  
40 as a result of abuse or has suffered sexual abuse  
41 may make a report as provided in section 235A.4."

42 187. Page 76, by striking lines 9 through 22 and  
43 inserting in lieu thereof the following:

44 "Sec. 87. Section two hundred forty-four point  
45 four (244.4), Code 1977, is amended by striking the  
46 section and inserting in lieu thereof the following:

47 244.4 PROCEDURE. The procedure for commitment  
48 to said homes shall be the same as provided by this  
49 Act."

50 188. Page 77, by inserting after line 6 the

1 following section:

2 "Sec. \_\_\_\_\_. Section three hundred thirty-six B  
3 point two (336B.2), Code 1977 Supplement, is amended  
4 to read as follows:

5 336B.2 FINANCIAL STATEMENT. Before an attorney  
6 is appointed under the provisions of sections 68.8,-  
7 145.17, 145.19, 222.22, ~~232-29~~ this Act, or rule 8,  
8 rules of criminal procedure, or to represent any per-  
9 son charged with a crime in this state, the court  
10 shall require the client, or his or her parent,  
11 guardian, or custodian to complete under oath a  
12 detailed financial statement."

13 189. Page 77, by striking lines 7 through 12 and  
14 inserting in lieu thereof the following:

15 "Sec. 90. Section three hundred fifty-six point  
16 three (356.3), Code 1977, is amended to read as  
17 follows:

18 356.3 MINORS SEPARATELY CONFINED. Any sheriff,  
19 city marshal, or chief of police, having in his or  
20 her care or custody any prisoner under the age of  
21 eighteen years, shall keep such prisoner separate  
22 and apart, and prevent communication by such prisoner  
23 with prisoners above that age, while such prisoners  
24 are not under the personal supervision of such offi-  
25 cer, if suitable buildings or jails are provided for  
26 that purpose, unless such prisoner is likely to or  
27 does exercise an immoral influence over other minors  
28 with whom he or she may be imprisoned.

29 A person under the age of eighteen years prosecuted  
30 under this Act and not waived to criminal court shall  
31 be confined in a jail only under the conditions  
32 provided in this Act.

33 PARAGRAPH DIVIDED. Any officer having charge of  
34 prisoners who without just cause or excuse neglects  
35 or refuses to perform the duties imposed on him or  
36 her by this section may be suspended or removed from  
37 office therefor."

38 190. Page 79, by inserting after line 23 the  
39 following new section:

40 "Sec. \_\_\_\_\_. The supreme court is authorized to  
41 propose rules of juvenile procedure for consideration  
42 by the first session of the sixty-eighth general  
43 assembly. This section shall be effective July 1,  
44 1978. Any rules promulgated under the authority of  
45 this section shall become effective July 1, 1979.  
46 Thereafter, the rules of juvenile procedure may be  
47 amended, provisions deleted, and new rules added,  
48 in the manner prescribed for civil rules under chapter  
49 six hundred eighty four (684)."

50 191. Page 79, by striking line 25 and inserting

1 in lieu thereof the word and figures "July 1, 1979."

2 192. By renumbering sections, subsections and  
3 paragraphs to conform with this amendment.

H-5335  
Page 19

H-5335 FILED  
RECEIVED FROM SENATE  
FEBRUARY 17, 1978

*Have amended (5586, 5646, & 5651) a-3  
Concurred 3/14 (p. 9'81)*

HOUSE AMENDMENT TO SENATE AMENDMENT  
TO HOUSE FILE 248

S-5370

- 1 Amend the Senate amendment H-5335, to House File  
2 248, as follows:
- 3 1. Page 2, by striking lines 16 through 31.
  - 4 2. Page 2, by striking lines 36 through 40.
  - 5 3. Page 3, by striking lines 40 through 41.
  - 6 4. Page 4, by striking lines 6 through 19.
  - 7 5. Page 4, by striking lines 22 through 25.
  - 8 6. Page 4, by striking line 39.
  - 9 7. Page 4, by striking lines 40 through 42.
  - 10 8. Page 5, by striking lines 10 through 24.
  - 11 9. Page 5, by striking lines 49 through 50.
  - 12 10. Page 6, by striking lines 7 through 11.
  - 13 11. Page 6, by striking lines 47 through 50.
  - 14 12. Page 7, by striking lines 45 through 48.
  - 15 13. Page 8, by striking line 40.
  - 16 14. Page 9, by striking lines 41 through 42.
  - 17 15. Page 12, by striking lines 12 through 14.
  - 18 16. Page 12, by striking lines 15 through 18.
  - 19 17. Page 13, by striking line 13.
  - 20 18. Page 15, by inserting after line 19 the  
21 following:  
22 " Page 61, by inserting after line 2 the  
23 following new paragraph:  
24 e. That the absence of a parent is due to the  
25 parent's admission or commitment to any institution,  
26 hospital or health facility or due to active service  
27 in the state or federal armed forces."  
28 19. Page 15, by striking line 49.  
29 20. Page 15, by striking line 50.  
30 21. Page 16, by striking line 1.

S-5370 FILED  
MARCH 15, 1978

RECEIVED FROM THE HOUSE

*Senate refused to concur 4/17 (p. 929)  
House insisted 4/20 (p. 1621)*

S-5112

1 Amend the Ramsey amendment, S-5081, to House File  
2 248 as amended, passed and reprinted by the House as  
3 follows:

4 1. Page 1, line 5, by striking the word "DELINQUENT"  
5 and inserting in lieu thereof the words "CHILD FOUND TO  
6 HAVE COMMITTED A DELINQUENT ACT".

7 2. Page 1, by striking line 6.

8 3. Page 1, by inserting after line 8 the following:  
9 "the least restrictive dispositional order appropriate in  
10 view of the seriousness of the delinquent act, the child's  
11 culpability as indicated by the circumstances of the par-  
12 ticular case; the age of the child and the child's prior  
13 record. The order shall specify".

14 4. Page 1, line 9, by striking the words "an order  
15 specifying".

16 5. Page 1, by striking lines 15 through 17 and in-  
17 serting in lieu thereof the following paragraph:

18 "a. An order prescribing a work assignment of value  
19 to the state or to the public, or prescribing restitution  
20 consisting of monetary payment or a work assignment of  
21 value to the victim. Such order may be the sole disposi-  
22 tion or may be included as an element in other dispositional  
23 orders."

24 6. Page 1, by inserting after line 20 the following  
25 lettered paragraph:

26 " . An order providing special care and treatment  
27 required for the physical, emotional or mental health of  
28 the child, and

29 (1) Placing the child on probation or other super-  
30 vision; and

31 (2) If the court deems appropriate, ordering the parent,  
32 guardian, or custodian to reimburse the county for any  
33 costs incurred as provided in section seventy-three (73),  
34 subsection two (2) of this Act or to otherwise pay or  
35 provide for such care and treatment."

36 7. Page 1, by striking line 50 through page 2, line 9.

37 8. Page 2, line 15, by striking all after the word  
38 "the".

39 9. Page 2, by striking lines 16 through 18 and insert-  
40 ing in lieu thereof the word "Code."

41 10. Page 2, by striking lines 19 through 24.

42 11. Page 2, by striking lines 40 through 50.

43 12. Page 3, by striking lines 1 through 44.

44 13. By renumbering subsequent paragraphs to  
45 conform to this amendment.

S-5112 FILED - *Adopted 1/31 (p 200)* BY MINNETTE F. DODERER  
JANUARY 30, 1978 RICHARD R. RAMSEY

HOUSE FILE 248

S-5013

- 1 Amend S-5004, the Judiciary Committee amendment  
2 to House File 248, as amended, passed and reprinted  
3 by the House as follows:  
4 1. Page 6, by inserting after line 4 the  
5 following new unnumbered paragraph:  
6 "Such child may be placed in a secure detention  
7 facility when there is probable cause to believe the  
8 child will not voluntarily remain at a shelter care  
9 facility."  
10 2. Page 6, line 6, by inserting after the word  
11 "care" the words "or secure detention facility".  
12 3. Page 6, line 9, by inserting after the word  
13 "care" the words "or secure detention facility".

S-5013 FILED - *Lost 1/26 (p. 163)* BY GENE W. GLENN  
JANUARY 12, 1978

HOUSE FILE 248

S-5014

- 1 Amend House File 248, as amended, passed and  
2 reprinted by the House, as follows:  
3 1. Page 34, by striking lines 15 through 19.  
4 2. By correcting subsequent paragraph letters,  
5 and correcting internal cross references as may be  
6 required by this amendment.

S-5014 FILED - *Out of order upon* BY GENE W. GLENN  
JANUARY 12, 1978 *adoption of*  
*5061 1/30 (p. 187)*

HOUSE FILE 248

S-5015

- 1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 27, line 8, by striking the words  
4 "forty-eight" and inserting in lieu thereof the  
5 words "seventy-two".

S-5015 FILED - *Lost 1/30 (p. 185)* BY GENE W. GLENN  
JANUARY 12, 1978

HOUSE FILE 248

S-5016

- 1 Amend the Committee on Judiciary amendment to House
- 2 File 248 (S-5004), as follows:
- 3 1. Page 8, line 30, by striking the number "75"
- 4 and inserting in lieu thereof the number "76".
- 5 2. Page 8, line 38, by striking the number "76"
- 6 and inserting in lieu thereof the number "77".

S-5016 FILED - *Adopted 1/26 (p. 164)* BY GENE W. GLENN  
JANUARY 12, 1978

HOUSE FILE 248

S-5024

- 1 Amend House File 248 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 65, by striking lines 3 through 6.
- 4 2. By renumbering the remaining subsections to
- 5 conform with this amendment.

S-5024 FILED - *Adopted 1/30 (p. 189)* BY PHILIP B. HILL  
JANUARY 18, 1978 GENE W. GLENN

HOUSE FILE 248

S-5028

- 1 Amend House File 248 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 10, by striking line 15 and inserting
- 4 in lieu thereof the following:
- 5 "six (106), one hundred nine (109), one hundred
- 6 ten (110), one hundred ten A (110A), one hundred
- 7 twenty-three (123), three hundred".

S-5028 FILED - *Adopted 1/27 (p. 176)* BY ALVIN V. MILLER  
JANUARY 18, 1978 *Motion to recommit 1/30 (191)*  
*Recommitted to committee 1/31 (201)*

HOUSE FILE 248

S-5012

- 1 Amend S-5004, the Judiciary Committee amendment,  
2 to House File 248 as amended, passed and reprinted by  
3 the House, as follows:  
4 1. Page 1, by striking lines 14 through line 32,  
5 and inserting in lieu thereof the following:  
6 "5. By striking page 2, line 5, through page 3,  
7 line 11, and inserting in lieu thereof the following:  
8 "5. "Child in need of assistance" means an  
9 unmarried child:  
10 a. Whose parent, guardian or other custodian has  
11 abandoned the child.  
12 b. Whose parent, guardian or custodian has  
13 physically abused or neglected the child, or is  
14 imminently likely to abuse or neglect the child.  
15 c. Who has suffered harmful effects as a result  
16 of:  
17 (1) Conditions created by the child's parent,  
18 guardian, custodian; or  
19 (2) The failure of the child's parent, guardian,  
20 or custodian to exercise a reasonable degree of care  
21 in supervising the child.  
22 d. Who has been sexually abused by his or her  
23 parent, guardian, custodian or other member of the house-  
24 hold in which the child resides.  
25 e. Who is in need of medical treatment to cure,  
26 alleviate, or prevent his or her serious physical injury  
27 or illness and whose parent, guardian or custodian is  
28 unwilling or unable to provide such treatment.  
29 f. Who is in need of treatment to cure or alleviate  
30 mental illness or disorder, or emotional damage as  
31 evidenced by anxiety, depression, withdrawal or untoward  
32 aggressive behavior toward self or others and whose  
33 parent, guardian, or custodian is unwilling or unable to  
34 provide such treatment.  
35 g. Whose parent, guardian, or custodian fails to  
36 exercise a minimal degree of care in supplying the child  
37 with adequate food, clothing or shelter or refuses other  
38 means made available to provide such essentials.  
39 h. Who has committed a delinquent act as a result  
40 of pressure, guidance, or approval from a parent,  
41 guardian, or custodian.  
42 i. Who has been the subject of or a party to sexual  
43 activities for hire or who poses for live display or for  
44 photographic or other means of pictorial reproduction  
45 or display which is designed to appeal to the prurient  
46 interest and is patently offensive; and taken as a whole,  
47 lacks serious literary, scientific, political or artistic  
48 value.  
49 j. Who is without a parent, guardian or other custodian.  
50 k. Whose parent, guardian, or other custodian for

1 good cause desires to be relieved of his care and  
2 custody.  
3 1. Who is without proper parental care because  
4 of the emotional, mental, or physical disability, or  
5 state of immaturity of his parents, guardian, or other  
6 custodian.  
7 m. Who absents himself or herself from his or her  
8 residence:  
9 1. Without just cause for such absence, and;  
10 2. Without the consent of parent, guardian or  
11 custodian; and  
12 3. In such a manner as to become exposed to  
13 conditions harmful to his or her development or welfare.  
14 n. Who refuses to attend school regularly as  
15 required by the compulsory education laws of this state  
16 although having been offered by his or her school  
17 system every reasonable opportunity to do so.""  
18 2. By renumbering the remaining paragraphs, and  
19 correcting internal cross references as may be required  
20 by this amendment.

S-5012 FILED - *Withdrawn 1/24 (p. 144)* BY GENE W. GLENN  
JANUARY 11, 1978

HOUSE FILE 248

S-5011

1 Amend S-5004, the Judiciary Committee amendment  
2 to House File 248 as amended, passed and reprinted  
3 by the House as follows:  
4 1. By striking page 1, line 50 through page 2,  
5 line 7 and inserting in lieu thereof the following:  
6 "19. Page 12, by striking lines 14 through 19  
7 and inserting in lieu thereof the following:  
8 "A child shall have the right to be represented  
9 by counsel at the following stages of the proceedings  
10 within the jurisdiction of the juvenile court under  
11 division two (II) of this Act:  
12 a. From the time the child is taken into custody  
13 for any alleged delinquent act that constitutes a  
14 serious or aggravated misdemeanor or felony under  
15 the Iowa criminal code, and during any questioning  
16 thereafter by a peace officer or probation officer."  
17 20. Page 12, line 32, by striking the words "the  
18 child's right".  
19 21. Page 12, by striking lines 33 through 35."  
20 2. By correcting subsequent paragraph numbers  
21 as required by this amendment.

S-5011 FILED - *Adopted 1/24 (p. 146)* BY GENE W. GLENN  
JANUARY 10, 1978

S-5009

1 Amend S-5004, the Judiciary Committee amendment,  
2 to House File 248 as amended, passed and reprinted by  
3 the House as follows:  
4 1. Page 2, by inserting after line 30 the  
5 following new paragraph:  
6 "31. Page 16, by inserting after line 5 the  
7 following new sub-paragraph:  
8 "e. There is probable cause to believe the child  
9 has run away from his or her residence and would not  
10 voluntarily remain at a shelter care facility,""  
11 2. By renumbering the remaining paragraphs, and  
12 correcting internal cross references as may be required  
13 by this amendment.

S-5009 FILED - *Withdrawn 1/25 (p. 153)* BY GENE W. GLENN  
JANUARY 10, 1978

HOUSE FILE 248

S-5010

1 Amend S-5004, the Judiciary Committee amendment,  
2 to House File 248 as amended, passed and reprinted by  
3 the House as follows:  
4 1. Page 2, by inserting after line 31 the  
5 following new paragraph:  
6 "32. Page 16, line 21, by striking the word  
7 "twelve" and inserting in lieu thereof the word  
8 "twenty-four"."  
9 2. By renumbering the remaining paragraphs, and  
10 correcting internal cross references as may be required  
11 by this amendment.

S-5010 FILED - *Lost 1/26 (161)* BY GENE W. GLENN  
JANUARY 10, 1978

HOUSE FILE 248

S-5006

1 Amend S-5004, the Judiciary Committee amendment  
2 to House File 248, as amended, passed and reprinted  
3 by the House as follows:  
4 1. Page 2, by inserting after line 31 the following  
5 new paragraph:  
6 "32. Page 17, line 20, by striking the word  
7 "twelve" and inserting in lieu thereof the word  
8 "twenty-four".  
9 2. By correcting subsequent paragraph numbers  
10 as required by this amendment.

S-5006 FILED - *Adopted 1/25 (p. 155)* BY GENE W. GLENN  
JANUARY 10, 1978

HOUSE FILE 248

S-5007

1 Amend S-5004, the Judiciary Committee amendment  
2 to House File 248, as amended, passed and reprinted  
3 by the House as follows:  
4 1. Page 1, by inserting after line 32 the following  
5 new paragraphs:  
6 "12. Page 4, line 7, by striking the word "which".  
7 13. Page 4, by striking line 8."  
8 2. By correcting subsequent paragraph numbers  
9 as required by this amendment.

S-5007 FILED - *Withdrawn 1/24 (p. 145)* BY GENE W. GLENN  
JANUARY 10, 1978

HOUSE FILE 248

S-5008

1 Amend S-5004, the Judiciary Committee amendment  
2 to House File 248, as amended, passed and reprinted  
3 by the House as follows:  
4 1. Page 2, by inserting after line 42 the  
5 following:  
6 "36. Page 19, line 14, by inserting after the  
7 word "counsel" the words "in accordance with section  
8 six (6) of this Act".  
9 2. By correcting subsequent paragraph numbers  
10 as required by this amendment.

S-5008 FILED - *Adopted 1/26* BY GENE W. GLENN  
JANUARY 10, 1978

HOUSE FILE 248

S-5004

- 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 "carried  
5 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 inserting  
11 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" and  
15 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 in  
19 lieu thereof the words "or prevent serious physical  
20 injury".  
21 8. Page 2, by striking line 26 and inserting in  
22 lieu thereof the words "to do so or has refused other  
23 means made available to provide treatment."  
24 9. Page 2, line 28, by striking the word "disorder"  
25 and inserting in lieu thereof the word "disorder,".  
26 10. Page 2, by striking lines 32 and 33 and  
27 inserting in lieu thereof the words "although  
28 financially able to do so or has refused other means  
29 made available to provide treatment."  
30 11. Page 3, by striking line 2 and inserting in  
31 lieu thereof the words ", or refuses other means made  
32 available to provide treatment."  
33 12. Page 5, lines 2, 3, 12, 14, 19 and 24, by  
34 striking the word "minor".  
35 13. Page 6, line 12, by adding after the word  
36 "complaints" the words "by an intake officer".  
37 14. Page 6, line 16, by striking the word  
38 "authorized" and inserting in lieu thereof the words  
39 "or other officer appointed".  
40 15. Page 9, line 19, by inserting after the word  
41 "adult." the words "The taking into custody of a child  
42 is subject to all constitutional and statutory  
43 protections which are afforded an adult upon arrest."  
44 16. Page 10, line 18, by inserting after the word  
45 "curfew" the words "or traffic".  
46 17. Page 10, by striking lines 24 through 26.  
47 18. Page 11, lines 12 and 13, by striking the  
48 words "The juvenile court shall waive jurisdiction  
49 upon motion by the child."  
50 19. Page 12, line 17, by striking the words "the

A  
Adopted  
1/26 (p. 164)

B  
Adopted  
1/24 (145)  
Revised and  
adopted on  
amended by  
5068 1/21  
(p. 204)

A  
Adopted  
1/26

5012-  
5068

5057

5068

e

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Page 2

5011 { 1 intake stage" and inserting in lieu thereof the word  
2 "intake".  
3 20. Page 12, line 18, by striking the words "at  
4 an interview".  
5 21. Page 12, line 35, by striking all after the  
6 word "of" and inserting in lieu thereof the word  
7 "age."

C  
adopted or  
amended by  
5060 B 1/25  
(p. 152)

5060 8 22. Page 13, by striking lines 1 through 4.

9 23. Page 14, line 8, by striking the word  
10 "delinquency".

11 24. Page 14, line 9, by inserting after the word  
12 "proceedings" the words "under Division two (II) of  
13 this Act".

14 25. Page 14, by striking lines 20 through 22.

15 26. Page 14, by striking lines 30 through 32 and  
16 inserting in lieu thereof the words "custodian as  
17 soon as possible. Unless the".

A  
adopted  
1/26

18 27. Page 15, line 6, by striking the words "and  
19 retained".

20 28. Page 15, line 11, by striking the words "or  
21 remain".

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

25 30. Page 16, line 1, by striking the word  
26 "another." and inserting in lieu thereof the following:  
27 "another; or

D

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

adopted or  
amended by  
5076 1/25  
minutes (p. 154)  
Recommended clause  
adopted (p. 21)

5076  
5064, 5007  
5010, 5067  
5077, 5084

31 31. Page 16, by striking lines 2 through 5.

32 32. Page 17, line 25, by striking the word  
33 "extreme" and inserting in lieu thereof the word  
34 "serious".

adopted or  
amended by  
5076 1/25  
(p. 154)  
(see above)

35 33. Page 17, line 25, by inserting after the word  
36 "public" the words "or to the property of others".

37 34. Page 18, line 1, by striking the word  
38 "children" and inserting in lieu thereof the words  
39 "a child awaiting disposition to a placement ordered  
40 under section thirty-one (31), subsection four (4),  
41 paragraph e, of this Act".

adopted  
1/26  
as amended  
by 5008

5068 42 35. Page 18, by striking lines 11 through 23.

43 36. Page 19, by inserting after line 15 the follow-  
44 ing:

45 " \_\_\_\_\_. The intake officer, after consultation with  
46 the county attorney when necessary, shall determine  
47 whether the complaint is legally sufficient for the  
48 filing of a petition. A complaint shall be deemed  
49 legally sufficient for the filing of a petition if  
50 the facts as alleged are sufficient to establish the

\* E. Adopted or amended by 5084, 5076, 5064, 5006

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Page 3

1 jurisdiction of the court and probable cause to believe  
2 that the child is a delinquent.' If the intake officer  
3 determines that the complaint is legally sufficient  
4 to support the filing of a petition, the officer shall  
5 determine whether the interests of the child and the  
6 public will best be served by the dismissal of the  
7 complaint, the informal adjustment of the complaint,  
8 or the filing of a petition."

*Adopted as  
amended by  
5056 1/26*

9 37. Page 19, line 26, by striking the word and  
10 figure "fifteen (15)" and inserting in lieu thereof  
11 the word and figure "fourteen (14)".

12 38. Page 19, lines 31 and 32, by striking the  
13 word and figure "sixteen (16)" and inserting in lieu  
14 thereof the word and figure "fifteen (15)".

15 39. Page 20, line 21, by striking the word "six"  
16 and inserting in lieu thereof the word "three".

*5056*

17 40. Page 20, line 31, by striking the word "six"  
18 and inserting in lieu thereof the word "three".

19 41. Page 20, line 33, by inserting after the word  
20 "into." the following sentence: "The informal  
21 adjustment shall not be admissible in proceedings  
22 on such a petition."

23 42. Page 21, line 3, by striking the words "every  
24 six months" and inserting in lieu thereof the word  
25 "annually".

26 43. Page 23, lines 2 and 10, by striking the word  
27 and figure "five (5)" and inserting in lieu thereof  
28 the word and figure "six (6)".

29 44. Page 23, by striking line 3 and inserting  
30 in lieu thereof the following:

31 "2. Notice of the pendency of the".

32 45. Page 23, line 4, by inserting after the word  
33 "case" the words "shall be".

34 46. Page 23, line 6, by striking the words "The  
35 court shall also".

36 47. Page 23, line 7, by striking the words "have  
37 notice" and inserting in lieu thereof the words "Notice  
38 shall also be".

39 48. Page 24, line 27, by striking the word "shall"  
40 and inserting in lieu thereof the word "may".

41 49. Page 24, line 28, by striking the words "in  
42 its discretion".

43 50. Page 25, by inserting after line 10 the follow-  
44 ing new section:

45 "Sec. \_\_\_\_ . NEW SECTION. CONTINUANCES.

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

49 51. Page 26, lines 2, 4 and 5, by striking the  
50 word "defendant" and inserting in lieu thereof the

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Page 4

- 1 word "child".
- 2 52. Page 26, line 15, by striking the word
- 3 "indicate" and inserting in lieu thereof the word
- 4 "state".
- 5 53. Page 30, line 3, by inserting after the word
- 6 "attorney" the words "or the child".
- 7 54. Page 30, line 4, by striking the words
- 8 "jurisdiction over" and lines 5 and 6 and inserting
- 9 in lieu thereof the word "jurisdiction."
- 10 55. Page 30, line 7, by striking the words "without
- 11 a jury".
- 12 56. Page 30, line 14, by striking the word and
- 13 figure "eighteen (18)" and inserting in lieu thereof
- 14 the word and figure "seventeen (17)".
- 15 57. Page 30, line 21, by inserting after the word
- 16 "court." the following sentence: "The report shall
- 17 include any recommendations made concerning waiver."
- 18 58. Page 31, by striking lines 26 through 31.
- 19 59. Page 32, by striking line 7 through 9 and
- 20 inserting in lieu thereof the words "sentence provided
- 21 section two hundred four point four hundred thirteen
- 22 (204.413), Code 1977 Supplement, shall not".
- 23 60. Page 35, by striking lines 10 through 14.
- 24 61. Page 35, line 30, by striking the words "except
- 25 as otherwise provided".
- 26 62. Page 36, by striking lines 4 and 5 and
- 27 inserting in lieu thereof the word "child."
- 28 63. Page 36, line 9, by inserting after the word
- 29 "hearing" the words "which may be simultaneous with
- 30 the adjudicatory hearing".
- 31 64. Page 36, line 30, by striking the word
- 32 "petition" and inserting in lieu thereof the word
- 33 "matter".
- 34 65. Page 37, line 2, by inserting after the word
- 35 "ILL" words "OR MENTALLY RETARDED".
- 36 66. Page 37, by striking line 7 and inserting
- 37 in lieu thereof the words "guardian to initiate civil
- 38 commitment proceedings in the juvenile court. Such
- 39 proceedings shall adhere to the requirements:M of
- 40 chapter two hundred".
- 41 67. Page 37, by striking line 13 and inserting
- 42 in lieu thereof the words "initiate civil commitment
- 43 proceedings in the juvenile court. Such proceedings
- 44 shall adhere to the requirements of chapter two hundred
- 45 twenty-two".
- 46 68. Page 37, line 25, by striking the word
- 47 "assignments" and inserting in lieu thereof the word
- 48 "assignments,".
- 49 69. Page 40, by striking line 15 and inserting
- 50 in lieu thereof the following: "three (33) of this

*Adopted as amended by 5056, 5065 1/26*

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Page 5

- 1 Act. No dispositional order made under section thirty-  
2 one (31), subsection four (4), paragraphs d or e".  
3 70. Page 40, line 23, by striking the word and  
4 figure "three (3)" and inserting in lieu thereof the  
5 word and figure "four (4)".  
6 71. Page 40, by striking line 35 and lines 1 and  
7 2, page 41.  
8 72. Page 41, line 10, by inserting after the word  
9 "paragraph" the words "a or".  
10 73. Page 41, line 21, by striking the word "para-  
11 graphs" and inserting in lieu thereof the word  
12 "paragraph".  
13 74. Page 41, by striking line 22 and inserting  
14 in lieu thereof the following: "c, of this Act, the  
15 court may grant a motion of".  
16 75. Page 41, line 23, by striking the words "or  
17 agency".  
18 76. Page 41, line 27 by striking the word "the"  
19 and lines 28 and 29 and inserting in lieu thereof  
20 the following: "all parties, and a hearing shall  
21 be held at the request of any party."  
22 77. Page 41, by inserting after line 29 the  
23 following new paragraph:  
24 "Notwithstanding the dispositional order, an agency,  
25 facility, or institution to whom custody has been  
26 granted under section thirty-one (31), subsection  
27 four (4), paragraphs c, d, or e, of the Code may  
28 terminate the order and discharge the child, modify  
29 the order by imposing less restrictive conditions,  
30 or vacate the order and substitute a less restrictive  
31 order without leave of court."  
32 78. Page 42, line 25, by striking the word and  
33 figure "eighteen (18)" and inserting in lieu thereof  
34 the word and figure "seventeen (17)".  
35 79. Page 44, line 7, by striking the words "or  
36 any other".  
37 80. Page 45, line 16, by striking the word and  
38 figure "nine (39)" and inserting in lieu thereof the  
39 word and figure "eight (38)".  
40 81. Page 45, line 23, by striking the word and  
41 figure "thirty-nine (39)" and inserting in lieu thereof  
42 the word and figure "thirty-eight (38)".  
43 82. Page 46, by striking lines 5 through 7.  
44 83. Page 46, by inserting after line 25 the  
45 following new section:  
46 "Sec. \_\_\_\_ . NEW SECTION. RETENTION AND SHELTER  
47 CARE OF RUNAWAY.  
48 1. A peace officer may remove a child to a shelter  
49 facility when:  
50 a. that officer has reasonable grounds to believe

A  
*Adopted*  
1/26

*Adopted*  
1/26 (163)

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1 that the child has run away from his or her parents,  
2 guardian or other custodian; and

3 b. the child is not currently residing in an  
4 environment deemed adequate by the department.

5 2. When a peace officer removes a child to shelter  
6 care under the provisions of subsection one (1) of  
7 this section, that officer shall notify the child's  
8 parent, guardian or custodian as soon as possible.

9 3. A child placed in shelter care under this  
10 section may be sheltered for up to forty-eight hours  
11 until a parent, guardian, or custodian assumes custody,  
12 or until other provisions are arranged for care of  
13 the child."

14 84. Page 47, line 2, by striking the word and  
15 figure "seventy-two (72)" and inserting in lieu thereof  
16 the word and figure "seventy-three (73)".

17 85. Page 47, line 14, by striking the word "should"  
18 and inserting in lieu thereof the word "may".

19 86. Page 48, line 1, by striking the word and  
20 figure "seventeen (17)" and inserting in lieu thereof  
21 the word and figure "sixteen (16)".

22 87. Page 48, line 3, by striking the word and  
23 figure "seventeen (17)" and inserting in lieu thereof  
24 the word and figure "sixteen (16)".

25 88. Page 48, line 10, by striking the word and  
26 figure "eighteen (18)" and inserting in lieu thereof  
27 the word and figure "seventeen (17)".

28 89. Page 48, line 32, by striking the word and  
29 figure "nineteen (19)" and inserting in lieu thereof  
30 the word and figure "eighteen (18)".

31 90. Page 49, line 12, by inserting after the word  
32 "or" the words "electronic or".

33 91. Page 50, line 30, by striking the words  
34 "privilege attaching to" and inserting in lieu thereof  
35 the words "prohibition upon".

36 92. Page 51, line 26, by striking the word  
37 "licnesed" and inserting in lieu thereof the word  
38 "licensed".

39 93. Page 52, by inserting after line 13 the  
40 following new paragraph:

41 "The hearing required by this section may be held  
42 simultaneously with the adjudicatory hearing."

43 94. Page 52, by striking lines 23 and 24.

44 95. Page 54, line 7, by inserting after the word  
45 "make" the words "not more than two".

46 96. Page 55, line 17, by striking the word and  
47 figure "six (6)" and inserting in lieu thereof the  
48 word and figure "five (5)".

49 97. Page 56, line 1, by inserting after the word  
50 "months" the words "except with leave of court for

*Adopted as amended by 5075, 1/26/78*

*Adopted as amended by 5050, 1/24*

*5050, 5051, 5052, 5053, 5054, 5055, 5056, 5057, 5058, 5059*

*5050*

*A*

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- 1 good cause shown".  
2 98. Page 56, line 14, by striking the word and  
3 figure "eighteen (18)" and inserting in lieu thereof  
4 the word and figure "seventeen (17)".  
5 99. Page 56, by striking lines 31 through 33 and  
6 inserting in lieu thereof the word "Act."  
7 100. Page 57, line 28, by striking the word and  
8 figure "forty-one (41)" and inserting in lieu thereof  
9 the word and figure "forty-two (42)".  
10 101. Page 57, line 29, by striking the word  
11 "department" and inserting in lieu thereof the word  
12 "department,".  
13 102. Page 57, line 33, by striking the word and  
14 figure "forty-one (41)" and inserting in lieu thereof  
15 the word and figure "forty-two (42)".  
16 103. Page 58, line 12, by striking the word and  
17 figure "ten (10)" and inserting in lieu thereof the  
18 word and figure "sixty-three (63)".  
19 104. Page 59, lines 23 and 27, by inserting after  
20 the word "physically" the words "or sexually".  
21 105. Page 61, by striking lines 12 through 14  
22 and inserting in lieu thereof the following:  
23 "If the court terminates the parental rights of  
24 the child's natural or adoptive parents, the court  
25 shall transfer the guardianship".  
26 106. Page 61, line 24, by striking the word and  
27 figure "six (6)" and inserting in lieu thereof the  
28 word and figure "five (5)".  
29 107. Page 61, line 29, by striking the word "and"  
30 and inserting in lieu thereof the word "or".  
31 108. Page 62, line 23, by striking the words "or  
32 any other".  
33 109. Page 63, line 5, by inserting after the word  
34 "relationship" the words "and that the petitioner  
35 has sought services from public or private agencies  
36 to maintain and improve the familial relationship".  
37 110. Page 63, line 11, by inserting after the  
38 word "guardian." the words "The court shall appoint  
39 counsel for the parent, guardian or custodian if that  
40 person desires but is financially unable to employ  
41 counsel."  
42 111. Page 63, line 30, by striking the word  
43 "unsuccessfully".  
44 112. Page 64, lines 3 and 4, by striking the words  
45 "such services" and inserting in lieu thereof the  
46 words "any counseling ordered by the court".  
47 113. Page 64, line 6, by striking the word  
48 "services" and inserting in lieu thereof the word  
49 "counseling".  
50 114. Page 64, by striking lines 25 through 31.

A  
Adopted  
1/26

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A  
Adopted  
amended by  
5016 1/26

1 115. Page 69, by striking lines 11 through 15.

2 116. Page 69, by inserting after line 22 the  
3 following new subsection:

4 "2. Official juvenile court records in cases  
5 alleging delinquency shall be public records."

6 117. Page 69, line 23, by inserting after the  
7 word "records" the words "in all cases except those  
8 alleging delinquency".

9 118. Page 69, line 24, by striking the word "may"  
10 and inserting in lieu thereof the word "shall".

11 119. Page 70, line 12, by striking the words "and  
12 legitimate".

13 120. Page 71, line 11, by striking the words and  
14 figure "seven hundred forty-nine B (749B)" and  
15 inserting in lieu thereof the words and figure "six  
16 hundred ninety-two (692)" and by inserting after the  
17 word "Code" the word "Supplement".

18 121. Page 71, line 35, by striking the word and  
19 figure "seven (7)" and inserting in lieu thereof the  
20 word and figure "nine (9)".

21 122. Page 73, line 6, by striking the words and  
22 figures "seventy-four (74) and seventy-six (76)" and  
23 inserting in lieu thereof the words and figures  
24 "seventy-five (75) and seventy-seven (77)".

25 123. Page 74, by striking line 10 and inserting  
26 in lieu thereof the words and figures "five (75)  
27 through seventy-eight (78)".

28 124. Page 74, line 11, by striking the word and  
29 figure "seven (77)".

5016 - 30 125. Page 75, by striking lines 9 through 22 and  
31 inserting in lieu thereof the following:

32 "Sec. 87. Section two hundred forty-four point  
33 four (244.4), Code 1977, is amended by striking the  
34 section and inserting in lieu thereof the following:

35 244.4 PROCEDURE. The procedure for commitment  
36 to said homes shall be the same as provided by this  
37 Act."

5016 - 38 126. Page 76, by striking lines 7 through 12 and  
39 inserting in lieu thereof the following:

40 "Sec. 90. Section three hundred fifty-six point  
41 three (356.3), Code 1977, is amended to read as  
42 follows:

43 356.3 MINORS SEPARATELY CONFINED. Any sheriff,  
44 city marshal, or chief of police, having in his or  
45 her care or custody any prisoner under the age of  
46 eighteen years, shall keep such prisoner separate  
47 and apart, and prevent communication by such prisoner  
48 with prisoners above that age, while such prisoners  
49 are not under the personal supervision of such offi-  
50 cer, if suitable buildings or jails are provided for

S-5004  
Page 9

1 that purpose, unless such prisoner is likely to or  
2 does exercise an immoral influence over other minors  
3 with whom he or she may be imprisoned.

4 A person under the age of eighteen years prosecuted  
5 under this Act and not waived to criminal court shall  
6 be confined in a jail only under the conditions  
7 provided in this Act.

8 PARAGRAPH DIVIDED. Any officer having charge of  
9 prisoners who without just cause or excuse neglects  
10 or refuses to perform the duties imposed on him or  
11 her by this section may be suspended or removed from  
12 office therefor."

S-5004 FILED - *Partly on*  
JANUARY 9, 1978 *divided*

BY GENE W. GLENN, CHAIRPERSON  
COMMITTEE ON JUDICIARY

A  
*adjusted*  
1/26

HOUSE FILE 248

S-5110

1 Amend the Redmond amendment, S-5108 to House File  
2 248 as amended, passed and reprinted by the House  
3 as follows:  
4 1. Page 1, line 10, by striking the word "January"  
5 and inserting in lieu thereof the word "July".

S-5110 FILED & ADOPTED (p. 190) BY JAMES M. REDMOND  
JANUARY 30, 1978

HOUSE FILE 248

S-5111

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 19, line 30 by striking the words "request  
4 the county".  
5 2. Page 19, by striking lines 31 and 32 and  
6 inserting in lieu thereof the following: "file a  
7 petition in accordance with section sixteen (16)  
8 of this Act, or shall request the county attorney  
9 to file such petition."  
10 3. Page 21, line 15, by inserting after the  
11 word "by" the words "the intake officer or by".  
12 4. Page 21, by striking lines 21 through 25  
13 and inserting in lieu thereof the following:  
14 "officer shall file a petition or shall submit a  
15 written request for the filing of a petition to the  
16 county attorney."

S-5111 FILED & LOST (p. 191) BY RICHARD R. RAMSEY  
JANUARY 30, 1978

HOUSE FILE 248

S-5113

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 3, by inserting after line 5 the follow-  
4 ing new paragraph:  
5 "\_\_\_\_. Who has committed a delinquent act as a result  
6 of his or her immaturity, emotional instability or  
7 lack of proper parental care and is less than fourteen  
8 years of age."

S-5113 FILED & LOST (p. 191) BY STEPHEN W. BISENIUS  
JANUARY 30, 1978

HOUSE FILE 248

S-5105

1 Amend House File 248 as amended, passed and  
2 reprinted by the House, as follows:

3 1. Page 48, by inserting after line 11 the  
4 following unnumbered paragraph:

5 "Notwithstanding section ten (10) of this Act,  
6 the court may order that a child thirteen years of  
7 age or older, who without reasonable cause fails to  
8 appear in response to a summons duly served as  
9 required by this section, may be taken into custody,  
10 and if necessary, placed in a detention facility  
11 other than one used for the detention of adults  
12 for a period not to exceed seventy-two (72) hours  
13 to assure the presence of the child at a hearing  
14 under this division. The child shall not be con-  
15 sidered to have committed a delinquent act by  
16 reason of such failure to appear."

17 2. Page 63, by inserting after line 15 the  
18 following unnumbered paragraph:

19 "Notwithstanding section ten (10) of this Act,  
20 the court may order that a child thirteen years of  
21 age or older, who without reasonable cause fails  
22 to appear in response to notice given as required  
23 by this section, may be taken into custody and, if  
24 necessary, placed in a detention facility other  
25 than one used for the detention of adults for a  
26 period not to exceed seventy-two (72) hours to  
27 assure the presence of the child at a hearing under  
28 this division. The child shall not be considered  
29 to have committed a delinquent act by reason of  
30 such failure to appear."

S-5105 FILED & LOST (p. 190) BY RICHARD R. RAMSEY  
JANUARY 30, 1978

HOUSE FILE 248

S-5107

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:

A 3 1. Page 10, line 15, by striking the words and  
4 figure "one hundred twenty-three (123),".

B 5 2. Page 10, by striking lines 18 through 21 and  
6 inserting in lieu thereof the following: "an adult,  
7 and".

S-5107 FILED  
JANUARY 30, 1978

BY RICHARD R. RAMSEY

A. Adopted 1/31 (p. 201)  
B. 1/2 (202)

S-5102

- 1 Amend the Ramsey amendment, S-5081, to House
- 2 File 248 as amended, passed and reprinted by the
- 3 House, as follows:
- 4 1. Page 1, line 33, by striking the words "and
- 5 time".

S-5102 FILED - *Adopted 1/21 (200)* BY RICHARD R. RAMSEY  
JANUARY 30, 1978

HOUSE FILE 248

S-5104

- 1 Amend the Doderer amendment S-5061, to House File
- 2 248 as amended, passed and reprinted by the House .
- 3 as follows:
- 4 1. Page 1, line 9, by inserting after the word
- 5 "hearing" the words "over the child's objection".

S-5104 FILED & ADOPTED (*g. 187*) BY RICHARD R. RAMSEY  
JANUARY 30, 1978 MINNETTE F. DODERER

HOUSE FILE 248

S-5106

- 1 Amend House File 248 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 10, line 15, by inserting after the word
- 4 and figure "six (106)," the following: "one hundred
- 5 nine (109), one hundred ten (110), one hundred ten A
- 6 (110A),".

S-5106 FILED - *Adopted 1/21 (g. 201)* BY ALVIN V. MILLER  
JANUARY 30, 1978

HOUSE FILE 248

S-5108

- 1 Amend House File 248 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 79, by inserting after line 23 the follow-
- 4 ing new section:
- 5 "Sec. \_\_\_\_ . The supreme court is authorized to
- 6 propose rules of juvenile procedure for consideration
- 7 by the first session of the sixty-eighth general assembly.
- 8 This section shall be effective July 1, 1978. Any
- 9 rules promulgated under the authority of this section
- 10 shall become effective January 1, 1979. Thereafter,
- 11 the rules of juvenile procedure may be amended, pro-
- 12 visions deleted, and new rules added, in the manner pre-
- 13 scribed for civil rules under chapter six hundred eighty
- 14 four (684)."

S-5108 FILED & ADOPTED *as amended by 5110 (g. 190)* BY JAMES M. REDMOND  
JANUARY 30, 1978

HOUSE FILE 248

S-5099

1 Amend the Kelly amendment, S-5046, to House File  
2 248 as amended, passed and reprinted by the House as  
3 follows:  
4 1. Page 1, by striking lines 6 through 9 and  
5 inserting in lieu thereof the following:  
6 "2. Page 54, by inserting after line 19 the  
7 following:  
8 "2. After a dispositional hearing the court may  
9 enter an order transferring the guardianship of the  
10 court for the purposes of subsection five (5) of this  
11 section, to the commissioner of the department of  
12 social services for the purposes of placement in the  
13 Iowa Juvenile Home at Toledo." "  
14 3. By renumbering the following sections to conform  
with this amendment.

S-5099 FILED - *Adopted 1/21 (p. 201)* BY E. KEVIN KELLY  
JANUARY 27, 1978

HOUSE FILE 248

S-5093

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 54, line 34, by striking the word "should"  
4 and inserting in lieu thereof the word "shall".  
5 2. Page 54, line 35, by striking the word "should"  
6 and inserting in lieu thereof the word "shall".

S-5093 FILED - *Adopted 1/30 (p. 188)* BY PHILIP HILL  
JANUARY 27, 1978

HOUSE FILE 248

S-5094

1 Amend the Glenn amendment, S-5033, to House File  
2 248 as amended, passed and reprinted by the House, as  
3 follows:  
4 1. Page 1, line 15, by striking the words "and  
5 time".

S-5094 FILED & ADOPTED (175) BY RICHARD R. RAMSEY  
JANUARY 27, 1978 LUCAS J. DE KOSTER

HOUSE FILE 248

S-5098

- 1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 19, by striking lines 30 through 32 and  
4 inserting in lieu thereof the following: "juvenile  
5 and the public, the intake officer shall file a  
6 petition in accordance with section sixteen (16) of this  
7 Act, or shall request the county attorney to file  
8 such petition."  
9 2. Page 21, line 15, by inserting after the word  
10 "by" the words "the intake officer or by".  
11 3. Page 21, by striking lines 21 through 25 and  
12 inserting in lieu thereof the following: "officer  
13 shall file a petition or shall submit a written request  
14 for the filing of a petition to the county attorney."

S-5098 FILED - *W. H. Brown 1/30 (J 190)* BY RICHARD R. RAMSEY  
JANUARY 27, 1978

HOUSE FILE 248

S-5087

- 1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 12, line 26, by striking the word  
4 "thirty" and inserting in lieu thereof the word  
5 "twenty".

S-5087 FILED - *Adopted 1/27 (J 176)* BY PHILIP B. HILL  
JANUARY 26, 1978

HOUSE FILE 248

S-5096

- 1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 10, line 22, by striking the word  
4 "nonindictable" and inserting in lieu thereof the  
5 word "simple".

S-5096 FILED - *Adopted 1/30 (J 184)* BY PHILIP HILL  
JANUARY 27, 1978

HOUSE FILE 248

S-5084

1 Amend S-5004 the Judiciary Committee amendment  
2 to House File 248 as amended, passed and reprinted by  
3 the House as follows:  
4 1. Page 2, by inserting after line 31 the following  
5 new paragraphs:  
6 "\_\_\_\_. Page 16, by striking lines 19 through 21  
7 and inserting in lieu thereof the following:  
8 "3. No child shall be detained in a facility  
9 intended or used for the detention of adults unless  
10 there is probable cause to believe the child has  
11 committed a delinquent act. No child who is alleged  
12 to have committed a delinquent act shall be detained  
13 in a facility intended or used for the detention of  
14 adults for a period in excess of 12 hours without a  
15 court order."  
16 \_\_\_\_\_. Page 17, by striking lines 18 through 21  
17 and inserting in lieu thereof the following new paragraph:  
18 "c. A room in a facility intended or used for  
19 the detention of adults if there is probable cause  
20 to believe that the child has committed a delinquent  
21 act. A child who is alleged to have committed a  
22 delinquent act may be detained in a facility intended  
23 or used for the detention of adults for a period of  
24 up to 12 hours without a written order of a judge or  
25 magistrate if: ".  
26 2. By renumbering subsequent paragraphs and  
27 correcting internal references as may be required by  
28 this amendment.

S-5084 FILED & ADOPTED (p. 162)  
JANUARY 26, 1978

BY MINNETTE F. DODERER  
TOM SLATER  
ALVIN V. MILLER  
BERL E. PRIEBE

HOUSE FILE 248

S-5091

1 Amend S-5055 to House File 248 as amended, passed  
2 and reprinted by the House as follows:  
3 1. Page 1, by striking line 3 and inserting in  
4 lieu thereof the following:  
5 "1. Page 1, line 7, by striking the words "state  
6 when" and inserting in lieu thereof the words "state.  
7 When".

S-5091 FILED & ADOPTED (p. 166)  
JANUARY 26, 1978

BY EUGENE M. HILL  
MINNETTE F. DODERER

HOUSE FILE 248

S-5082

- 1 Amend S-5081 to House File 248, as amended,
- 2 passed and reprinted by the House as follows:
- 3 1. Page 3, line 36, by striking the word
- 4 "tranferred" and inserting in lieu thereof the word
- 5 "transferred".

S-5082 FILED - *Adopted 1/30 (p 157)* BY RICHARD R. RAMSEY  
JANUARY 26, 1978

HOUSE FILE 248

S-5092

- 1 Amend House File 248 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 54, lines 34 and 35, by striking the
- 4 word "should" and inserting in lieu thereof the
- 5 word "shall".

S-5092 FILED - *Withdrawn 1/30 (p 128)* BY PHILIP HILL  
JANUARY 26, 1978

HOUSE FILE 248

S-5088

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 77, by striking lines 7 through 12.

S-5088 FILED - *Withdrawn 1/30 (p. 189)* BY C. W. HUTCHINS  
JANUARY 26, 1978

HOUSE FILE 248

S-5089

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 4, by inserting after line 35 the  
4 following: "A breakdown in the relationship  
5 between a child and his or her parent, guardian or  
6 custodian shall include but not be limited to the  
7 following situations:  
8 a. A child absents himself or herself from  
9 his or her residence:  
10 (1) Without just cause for such absence; and  
11 (2) Without the consent of parent, guardian or  
12 custodian; and  
13 (3) In such a manner as to become exposed to  
14 conditions harmful to his or her development or  
15 welfare.  
16 b. A child refuses to attend school regularly  
17 as required by the compulsory education laws of this  
18 state although having been offered by his or her school  
19 system and parent, guardian or custodian every reasonable  
20 opportunity to do so."

S-5089 FILED - *Adopted 1/30 (p. 189)* BY EUGENE M. HILL  
JANUARY 26, 1978

*Motion to reconsider 1/31 (205) recommended and withdrawn 1/31 (212)*

HOUSE FILE 248

S-5090

1 Amend S-5054 to House File 248 as amended,  
2 passed and reprinted by the House as follows:  
3 1. Page 1, line 5, by striking the word "an"  
4 and inserting in lieu thereof the words "a  
5 dispositional".  
6 2. Page 1, line 10, by striking the word "an"  
7 and inserting in lieu thereof the words " a  
8 dispositional".

S-5090 FILED - *Adopted 1/27 (175)* BY RICHARD R. RAMSEY  
JANUARY 26, 1978

HOUSE FILE 248

S-5085

1 Amend the Committee on Judiciary amendment (S-5004)  
2 to House File 248 as follows:  
3 1. Page 6, line 6, by striking the words and  
4 number "subsection one (1)" and inserting in lieu  
5 thereof the words and numbers "subsection one (1)  
6 or two (2)".  
7 2. Page 6, by inserting after line 13 the following  
8 new subsection:  
9 "\_\_\_\_\_. A child placed in a detention facility  
10 may be detained for up to twenty-four hours until  
11 a parent, guardian, or custodian assumes custody,  
12 or until other provisions are arranged for care of  
13 the child."  
14 3. By renumbering subsections as may be required  
15 by this amendment.

S-5085 FILED & WITHDRAWN (p. 163) BY PHILIP B. HILL  
JANUARY 26, 1978

HOUSE FILE 248

S-5086

1 Amend the Committee on Judiciary amendment (S-5004)  
2 to House File 248 as follows:  
3 1. Page 6, by inserting after line 4 the following  
4 new subsection:  
5 "2. A peace officer may remove a child to a  
6 detention facility when that officer has reasonable  
7 grounds to believe that the child has twice run away  
8 from a shelter facility to which he or she has ~~been~~ removed  
9 pursuant to subsection one (1) of this section and  
10 that the child is likely to run away again if placed  
11 in a shelter facility."  
12 2. By renumbering subsections as may be required  
13 by this amendment.

S-5086 FILED & WITHDRAWN (163) BY PHILIP B. HILL  
JANUARY 26, 1978

S-5081

1 Amend House File 248, as amended, passed and  
2 reprinted by the House, as follows:

3 1. By striking page 37, line 18 through page 40,  
4 line 8, and inserting in lieu thereof the following:

5 "Sec. 31. NEW SECTION. DISPOSITION OF DELINQUENT  
6 CHILD.

7 1. Pursuant to a hearing as provided in section  
8 twenty-nine (29) of this Act, the court shall enter  
9 an order specifying the duration and the nature of  
10 the disposition, including the type of residence or  
11 confinement ordered and the individual, agency,  
12 department or facility in whom custody is vested.

13 2. The dispositional orders which the court may  
14 enter are as follows:

15 a. An order continuing the proceeding from time  
16 to time under such monitoring as the court deems  
17 necessary.

18 b. An order placing the child on probation and  
19 releasing the child to his or her parent, guardian  
20 or custodian.

21 c. An order transferring the legal custody of  
22 the child, subject to the continuing jurisdiction  
23 of the court for purposes of section thirty-three  
24 (33) of this Act, to one of the following:

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

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

32 (3) The department of social services for purposes  
33 of foster care and prescribing the type and time of  
34 placement which will serve the best interests of the  
35 child and the means by which the placement shall be  
36 monitored by the court.

37 d. An order transferring the guardianship of the  
38 child, subject to the continuing jurisdiction of the  
39 court for the purposes of section thirty-three (33)  
40 of this Act, to the commissioner of the department  
41 of social services for purposes of placement in the  
42 Iowa juvenile home at Toledo, the Iowa training school  
43 for boys, the Iowa training school for girls, or other  
44 facility provided that:

45 (1) The child is at least twelve years of age;  
46 and

47 (2) The court finds such placement to be in the  
48 best interests of the child or necessary to the  
49 protection of the public.

50 e. An order providing special care and treatment

1 required for the physical, emotional or mental health  
2 of the child, and

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

5 (2) If the court deems appropriate, ordering the  
6 parent, guardian or custodian to reimburse the county  
7 for any costs incurred as provided in section seventy-  
8 three (73), subsection two (2) of this Act or to  
9 otherwise pay or provide for such care and treatment.

10 f. An order committing the child to a mental  
11 health institute or other appropriate facility for  
12 the purpose of treatment of a mental or emotional  
13 condition after making findings pursuant to the  
14 standards set out for involuntary commitment in chapter  
15 two hundred twenty-nine (229) of the Code, or a finding  
16 that such commitment is necessary to a treatment plan  
17 aimed at preventing the child from further involvement  
18 in serious delinquent acts.

19 g. An order prescribing a work assignment of value  
20 to the state or to the public, or prescribing  
21 restitution consisting of monetary payment or a work  
22 assignment of value to the victim. Such order may  
23 be the sole disposition or may be included as an  
24 element in other dispositional orders.

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

34 4. When the court enters an order transferring  
35 the legal and physical custody of a child to an agency,  
36 facility, department or institution, the court shall  
37 transmit its order, its finding, and a summary of  
38 its information concerning the child to such agency,  
39 facility, department or institution."

40 2. By striking page 41, line 3, through page 42,  
41 line 27, and inserting in lieu thereof the following:  
42 "Sec. 33. NEW SECTION. TERMINATION, MODIFICATION,  
43 OR VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER.  
44 At any time prior to its expiration, a dispositional  
45 order may be terminated, modified, or vacated and  
46 another dispositional order substituted therefor in  
47 accordance with the following provisions:

48 1. The court shall consider a motion under this  
49 section by any of the following:

50 a. The child;

1       b. The child's parent, guardian or custodian;  
2       c. The child's guardian ad litem;  
3       d. The individual, agency, department or facility  
4 having supervision, legal or physical custody, or  
5 guardianship of the child under a dispositional order;  
6       e. A county attorney;  
7       f. The probation officer.  
8       2. A hearing shall be held at the request of any  
9 party, and notice shall be afforded to all parties.  
10       3. The court shall not be required to hear a  
11 motion under this section by the child, the child's  
12 parent, guardian or custodian, or the child's guardian  
13 ad litem more than once every six months.  
14       4. With respect to a child who is placed by the  
15 court in the custody or guardianship of an agency,  
16 department, facility, or institution, such child shall  
17 be transferred from a private home or nonsecure  
18 facility to a secure facility or institution in  
19 accordance with the following proceedings:  
20       a. A hearing under this section shall be held  
21 within seventy-two hours, not counting Sundays and  
22 legal holidays, from the time such transfer is made;  
23       b. Upon a finding that clear and convincing  
24 evidence has been presented in support of such  
25 transfer, the court shall grant a motion that such  
26 transfer be permitted;  
27       c. In the absence of such evidence, the court  
28 shall order the child returned to the private home  
29 or nonsecure facility or shall make such other  
30 modifications in the dispositional order as the  
31 evidence may indicate.  
32       5. An agency, department, institution or facility  
33 which has been given custody or guardianship of a  
34 child shall not be required by this section to file  
35 a motion for modification of the dispositional order  
36 when the child is transferred to an equally restrictive  
37 or less restrictive placement, and shall be empowered  
38 to discharge the child and terminate the case.  
39       6. All relevant and material evidence shall be  
40 admitted at hearings held under this section. Notice  
41 requirements of this section shall be satisfied in  
42 the same manner as for detention or shelter care  
43 hearings as provided in section twenty-three (23)  
44 of this Act."

S-5081 FILED - *Adopted as amended* BY RICHARD R. RAMSEY  
JANUARY 25, 1978 *by 5082, 5112*  
*with 5102 1/31 (p. 201)*

1 Amend House File 248 as amended, passed, and  
2 reprinted by the House as follows:

c 3 1. Page 15, line 18, by striking the words "or  
4 retained".

A 5 2. Page 19, lines 4 and 5, by striking the word  
6 and figure "sixteen (16)" and inserting in lieu thereof  
7 the word and figure "fifteen (15)".

B 8 3. Page 19, line 30, by striking the word "may"  
9 and inserting in lieu thereof the word "shall".

A 10 4. Page 22, line 28, by inserting after the word  
11 "filed" the words "the court shall set a time for  
12 an adjudicatory hearing".

13 5. Page 22, by striking line 30.

14 6. Page 31, line 23, by striking the word "child"  
15 and inserting in lieu thereof the word "child,".

16 7. Page 36, by inserting after line 25 the  
17 following unnumbered paragraph:

18 "An examination shall be conducted on an outpatient  
19 basis unless the court, the child's counsel and the  
20 parent, guardian or custodian agree that it is  
21 necessary the child be committed to a suitable  
22 hospital, facility or institution for the purpose  
23 of examination. Commitment for examination shall  
24 not exceed thirty days and the civil commitment  
25 provisions of chapter two hundred twenty-nine (229)  
26 of the Code shall not apply."

27 8. Page 49, line 6, by striking the words "or  
28 in addition to".

29 9. Page 49, line 9, by striking the words  
30 "additional or".

31 10. Page 75, by inserting after line 23 the  
32 following new sections:

33 "Sec. \_\_\_\_\_. Section two hundred thirty-five A  
34 point two (235A.2), Code 1977, is amended by adding  
35 the following new subsection:

36 NEW SUBSECTION. "Sexual abuse" means sexual abuse  
37 as defined in division nine (IX) of the Iowa criminal  
38 code, or lascivious acts with a child as defined in  
39 division nine (IX) of the Iowa criminal code.

40 Sec. \_\_\_\_\_. Section two hundred thirty-five A point  
41 three (235A3), Code 1977, is amended to read as  
42 follows:

43 235A.3 MANDATORY AND PERMISSIVE REPORTERS.

44 1. The following classes of persons shall make  
45 a report, as provided in section 235A.4, of cases  
46 of child abuse and, sexual abuse of a child, willful  
47 neglect and child abuse suffered by a child during  
48 the care or custody of the child by a person not  
49 listed in section 235A.2, subsection 2:

50 a. Every health practitioner who examines, attends,

1 or treats a child and who believes or has reason to  
 2 believe that the child has had physical injury  
 3 inflicted on the child as a result of abuse or has  
 4 suffered sexual abuse. If, however, the health  
 5 practitioner examines, attends, or treats the child  
 6 as a member of the staff of a hospital or similar  
 7 institution, the examining health practitioner shall  
 8 immediately notify and give complete information to  
 9 the person in charge of the institution or the health  
 10 practitioner's designated agent and the person in  
 11 charge of the institution or designated agent shall  
 12 make the report.

13 b. Every social worker under the jurisdiction  
 14 of the department of social services, public or private  
 15 health care facility as defined in section 135C.1,  
 16 certified psychologist, certificated school employee,  
 17 employee of a licensed day care facility, member of  
 18 the staff of a mental health center, or peace officer,  
 19 who, in the course of employment, examines, attends,  
 20 counsels or treats a child and believes or has reason  
 21 to believe that the child has had physical injury  
 22 inflicted on the child as a result of abuse or has  
 23 suffered sexual abuse. Whenever such person is  
 24 required to report under this section as a member  
 25 of the staff of a public or private institution,  
 26 agency or facility, that person shall immediately  
 27 notify the person in charge of such institution,  
 28 agency or facility, or that person's designated agent  
 29 and the person in charge of the institution, agency,  
 30 or facility, or the designated agent shall make the  
 31 report.

32 2. Any other person who believes that a child  
 33 has had received physical injury ~~inflicted upon him~~  
 34 as a result of abuse or has suffered sexual abuse  
 35 may make a report as provided in section 235A.4."

36 11. By renumbering sections to conform to this  
 37 amendment.

S-5079 FILED

JANUARY 25, 1978

*@ withdrawn 1/27 (176)**1. adapted*

BY MINNETTE F. DODERER

*B. Adapted (30 (p. 130))*

HOUSE FILE 248

S-5080

1 Amend the Committee on Judiciary amendment S-5004  
 2 to House File 248 as follows:

3 1. Page 4, line 39, by striking the word  
 4 "requirements:M" and inserting in lieu thereof the  
 5 word "requirements".

S-5080 FILED. *Withdrawn 1/27 (174)*  
 JANUARY 25, 1978

BY PHILIP B. HILL

S-5075

1 Amend the Committee on Judiciary amendment  
 2 S-5004, to House File 248 as follows:  
 3 1. Page 6, by striking lines 3 and 4, and  
 4 inserting in lieu thereof the following:  
 5 "b. the child is found in surroundings or  
 6 conditions which endanger the health or welfare of  
 7 the child."

S-5075 FILED - *Adopted 1/26 (p 162)* BY GENE W. GLENN  
 JANUARY 25, 1978

## HOUSE FILE 248

S-5076

1 Amend S-5004, the Judiciary Committee amendment  
 2 to House File 248, as amended, passed, and reprinted  
 3 by the House, as follows:  
 4 1. Page 2, by inserting after line 30 the following  
 5 new paragraph:  
 6 "\_\_\_\_. Page 16, by inserting after line 1, the following  
 7 new paragraph:  
 8 "e. The child has previously run away on two separate  
 9 occasions from a shelter care facility."  
 10 2. By renumbering the remaining paragraphs and  
 11 correcting internal cross references as may be required  
 12 by this amendment.

S-5076 FILED & ADOPTED (*p 154*) BY TOM SLATER  
 JANUARY 25, 1978

## HOUSE FILE 248

S-5077

1 Amend S-5004, the Judiciary Committee amendment  
 2 to House File 248 as amended, passed and reprinted by  
 3 the House as follows:  
 4 1. Page 2, by inserting after line 31 the following  
 5 new paragraph:  
 6 "\_\_\_\_. Page 16, by striking lines 19 through 21  
 7 and inserting in lieu thereof the following:  
 8 "3. No child shall be detained in a facility  
 9 intended or used for the detention of adults unless  
 10 there is probable cause to believe the child has  
 11 committed a delinquent act. No child who is alleged  
 12 to have committed a delinquent act shall be detained  
 13 in a facility intended or used for the detention of  
 14 adults for a period in excess of 12 hours without a  
 15 court order."  
 16 2. By renumbering subsequent paragraphs and  
 17 correcting internal references as may be required by  
 18 this amendment.

S-5077 FILED. *Withdrawn 1/26 (162)* BY MINNETTE F. DODERER  
 JANUARY 25, 1978 TOM SLATER  
 ALVIN V. MILLER  
 BEBE C. BRIEST

S-5069

- 1 Amend House File 248 as amended, passed, and  
 2 reprinted by the House as follows:
- 3 1. Page 15, line 18, by striking the words "or  
 4 retained".
- 5 2. Page 19, lines 4 and 5, by striking the word  
 6 and figure "sixteen (16)" and inserting in lieu thereof  
 7 the word and figure "fifteen (15)".
- 8 3. Page 19, line 30, by striking the word "may"  
 9 and inserting in lieu thereof the word "shall".
- 10 4. Page 22, line 28, by inserting after the word  
 11 "filed" the words "the court shall set a time for  
 12 an adjudicatory hearing".
- 13 5. Page 22, by striking line 30.
- 14 6. Page 31, line 23, by striking the word "child"  
 15 and inserting in lieu thereof the word "child,".
- 16 7. Page 36, by inserting after line 25 the  
 17 following unnumbered paragraph:  
 18 "The examination shall be conducted when possible  
 19 on an outpatient basis, but the court may, if it deems  
 20 necessary, commit the child to a suitable hospital,  
 21 facility or institution for the purpose of  
 22 examination."
- 23 8. Page 49, line 6, by striking the words "or  
 24 in addition to".
- 25 <sup>9</sup>Page 49, line 9, by striking the words  
 26 "additional or".
- 27 10. Page 75, by inserting after line 23 the  
 28 following new sections:  
 29 "Sec. \_\_\_\_\_. Section two hundred thirty-five A  
 30 point two (235A.2), Code 1977, is amended by adding  
 31 the following new subsection:  
 32 NEW SUBSECTION. "Sexual abuse" means sexual abuse  
 33 as defined in division nine (IX) of the Iowa criminal  
 34 code, or lascivious acts with a child as defined in  
 35 division nine (IX) of the Iowa criminal code.  
 36 Sec. \_\_\_\_\_. Section two hundred thirty-five A point  
 37 three (235A.3), Code 1977, is amended to read as  
 38 follows:  
 39 235A.3 MANDATORY AND PERMISSIVE REPORTERS.  
 40 1. The following classes of persons shall make  
 41 a report, as provided in section 235A.4, of cases  
 42 of child abuse ~~and~~, sexual abuse of a child, willful  
 43 neglect and child abuse suffered by a child during  
 44 the care or custody of the child by a person not  
 45 listed in section 235A.2, subsection 2:  
 46 a. Every health practitioner who examines, attends,  
 47 or treats a child and who believes or has reason to  
 48 believe that the child has had physical injury  
 49 inflicted on the child as a result of abuse or has  
 50 suffered sexual abuse. If, however, the health

1 practitioner examines, attends, or treats the child  
2 as a member of the staff of a hospital or similar  
3 institution, the examining health practitioner shall  
4 immediately notify and give complete information to  
5 the person in charge of the institution or the health  
6 practitioner's designated agent and the person in  
7 charge of the institution or designated agent shall  
8 make the report.

9 b. Every social worker under the jurisdiction  
10 of the department of social services, public or private  
11 health care facility as defined in section 135C.1,  
12 certified psychologist, certificated school employee,  
13 employee of a licensed day care facility, member of  
14 the staff of a mental health center, or peace officer,  
15 who, in the course of employment, examines, attends,  
16 counsels or treats a child and believes or has reason  
17 to believe that the child has had physical injury  
18 inflicted on the child as a result of abuse or has  
19 suffered sexual abuse. Whenever such person is  
20 required to report under this section as a member  
21 of the staff of a public or private institution,  
22 agency or facility, that person shall immediately  
23 notify the person in charge of such institution,  
24 agency or facility, or that person's designated agent  
25 and the person in charge of the institution, agency,  
26 or facility, or the designated agent shall make the  
27 report.

28 2. Any other person who believes that a child  
29 has had received physical injury inflicted-upon-him  
30 as a result of abuse or has suffered sexual abuse  
31 may make a report as provided in section 235A.4."

32 11. By renumbering sections to conform to this  
33 amendment.

S-5069 FILED *Withdrawn 1/27 (p 112)* BY MINNETTE F. DODERER  
JANUARY 24, 1978

HOUSE FILE 248

S-5071

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:

3 1. Page 3, by inserting after line 11 the  
4 following new paragraph:

5 "j. Who for good cause desires to have his or  
6 her parents relieved of his or her care and custody."

S-5071 FILED *Adopted 1/26 (146)* BY E. KEVIN KELLY  
JANUARY 24, 1978

HOUSE FILE 248

S-5065

1 Amend S-5004, the Judiciary Committee amendment,  
2 to House File 248 as amended, passed and reprinted  
3 by the House, as follows:  
4 1. Page 4, line 20, by inserting after the word  
5 "provided" the word "in".

S-5065 FILED - *adopted 1/26 (164)* BY GENE W. GLENN  
JANUARY 24, 1978

HOUSE FILE 248

S-5066

1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 10, line 7, by striking the words "does  
4 not occur" and inserting in lieu thereof the word  
5 "occurs".  
6 2. Page 10, line 8, by striking the words "more  
7 than" and inserting in lieu thereof the words "less  
8 than".  
9 3. Page 10, line 11, by striking the words "more  
10 than" and inserting in lieu thereof the words "less  
11 than".

S-5066 FILED - *adopted 1/27 (176)* BY RICHARD R. RAMSEY  
JANUARY 24, 1978

HOUSE FILE 248

S-5067

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 15, line 10, by striking the word "and"  
4 and inserting in lieu thereof the word "or".

S-5067 FILED - *adopted 1/27 (177)* BY C. JOSEPH COLEMAN  
JANUARY 24, 1978

S-5060

- 1 Amend the Committee on Judiciary amendment (S-5004)  
 2 to House File 248 as follows:  
 3 1. Page 1, by inserting after line 49 the following  
 4 new section:  
 5 "\_\_\_\_\_. Page 12, line 16, by inserting after the  
 6 word "Act" the words "provided that the alleged  
 7 delinquent act constitutes a serious or aggravated  
 8 misdemeanor or felony under the Iowa Code".
- 
- 9 2. Page 2, by inserting after line 8 the following  
 10 new section:  
 11 "\_\_\_\_\_. Page 14, by inserting after line 2 the  
 12 following new subsection:  
 13 "6. Nothing in this section shall be construed  
 14 to prevent the child or the child's parent, guardian  
 15 or custodian from retaining counsel to represent the  
 16 child in proceedings under division two (II) of this  
 17 Act in which the alleged delinquent act constitutes  
 18 a simple misdemeanor under the Iowa Code."
- 
- 19 3. Page 4, line 39, by striking the word  
 20 "requirements:M" and inserting in lieu thereof the  
 21 word "requirements".
- 
- 22 4. Page 6, by inserting after line 4 the following  
 23 new unnumbered paragraph:  
 24 "Such child may be placed in a detention facility  
 25 for not more than twenty-four hours when there is  
 26 probable cause to believe the child will not  
 27 voluntarily remain at a shelter facility."  
 28 5. By renumbering all sections and subsections  
 29 as may be required by this amendment.

S-5060 FILED  
 JANUARY 23, 1978

BY PHILIP B. HILL

A  
 Loebe  
 1/24  
 (S. 145)

B  
 adopted  
 1/25  
 (S. 152)

C  
 withdrawn  
 1/25 (152)

D  
 withdrawn  
 1/25 (152)

S-5059

1 Amend the Committee on Judiciary amendment (S-5004)  
2 to House File 248 as follows:

3 1. Page 6, by inserting after line 4 the following  
4 new subsection:

5 "2. A peace officer may remove a child to a  
6 detention facility when that officer has reasonable  
7 grounds to believe that the child has run away from  
8 a shelter facility to which he has been removed  
9 pursuant to subsection one (1) of this section and  
10 that the child is likely to run away again if placed  
11 in a shelter facility."

12 2. Page 6, line 6, by inserting after the word  
13 "care" the words "or a detention facility".

14 3. Page 6, line 6, by striking the words and  
15 number "subsection one (1)" and inserting in lieu  
16 thereof the words and numbers "subsection one (1)  
17 or two (2)".

18 4. Page 6, by inserting after line 13 the following  
19 new subsection:

20 "\_\_\_\_\_. A child placed in a detention facility  
21 may be detained for up to twenty-four hours until  
22 a parent, guardian, or custodian assumes custody,  
23 or until other provisions are arranged for care of  
24 the child."

25 5. By renumbering subsections as may be required  
26 by this amendment.

S-5059 FILED. *Withdrawn 1/26 (p. 163)* BY PHILIP B. HILL  
JANUARY 23, 1978

HOUSE FILE 248

S-5056

1 Amend the Committee on Judiciary amendment,  
2 S-5004, to House File 248 as amended, passed and  
3 reprinted by the House as follows:  
A 4 1. Page 3, by striking lines 15 through 18.  
B 5 2. Page 4, by inserting after line 23 the  
6 following new paragraph:  
7 "61. Page 35, line 17, by striking the word  
8 "petition" and inserting in lieu thereof the word  
9 "matter"."  
10 3. By renumbering subsequent paragraphs and  
11 correcting internal references as may be required by  
12 this amendment.

S-5056 FILED - *Adopted 1/26 (p. 164)* BY RICHARD R. RAMSEY  
JANUARY 23, 1978

HOUSE FILE 248

S-5058

1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 38, by striking lines 20 through 27 and  
4 inserting in lieu thereof the following:  
5 "c. An order placing the child on probation under  
6 such conditions as the court prescribes and  
7 transferring the legal custody of the child, subject  
8 to the continuing jurisdiction of the court for  
9 purposes of section thirty-three (33) of this Act,  
10 to one of the following:  
11 (1) An adult relative or other suitable adult.  
12 (2) A child placing agency or other suitable  
13 private agency or facility which is licensed or  
14 otherwise authorized by law to receive and provide  
15 care for children.  
16 (3) The department of social services for purposes  
17 of foster care subject to the placement order  
18 prescribing the type and time of placement which will  
19 serve the best interests of the child, and the means  
20 by which the placement shall be monitored by the  
21 court."  
22 2. Page 41, by striking lines 20 through 29.

S-5058 FILED - *Withd. 1/31 (201)* BY RICHARD R. RAMSEY  
JANUARY 23, 1978

S-5068

- 1 Amend S-5004, the Judiciary Committee amendment  
2 to House File 248 as amended, passed and reprinted by  
3 the House as follows:
- 4 1. Page 1, by striking lines 14 through 32  
5 and inserting in lieu thereof the following:
- 6 "5. By striking page 2, line 5, through page 3,  
7 line 11 and inserting in lieu thereof the following:
- 8 "5. "Child in need of assistance" means an  
9 unmarried child:
- 10 a. Whose parent, guardian or other custodian has  
11 abandoned the child.
- 12 b. Whose parent, guardian or other custodian has  
13 physically abused or neglected the child, or is  
14 imminently likely to abuse or neglect the child.
- 15 c. Who has suffered harmful effects as a result  
16 of:
- 17 (1) Conditions created by the child's parent, guardian,  
18 custodian; or
- 19 (2) The failure of the child's parent, guardian,  
20 or custodian to exercise a reasonable degree of care  
21 in supervising the child.
- 22 d. Who has been sexually abused by his or her  
23 parent, guardian, custodian or other member of the house-  
24 hold in which the child resides.
- 25 e. Who is in need of medical treatment to cure,  
26 alleviate, or prevent serious physical injury  
27 or illness and whose parent, guardian or custodian is  
28 unwilling or unable to provide such treatment.
- 29 f. Who is in need of treatment to cure or alleviate  
30 serious mental illness or disorder, or emotional damage as  
31 evidenced by severe anxiety, depression, withdrawal or untoward  
32 aggressive behavior toward self or others and whose  
33 parent, guardian, or custodian is unwilling or unable to  
34 provide such treatment.
- 35 g. Whose parent, guardian, or custodian fails to  
36 exercise a minimal degree of care in supplying the child  
37 with adequate food, clothing or shelter or refuses other  
38 means made available to provide such essentials.
- 39 h. Who has committed a delinquent act as a result  
40 of pressure, guidance, or approval from a parent,  
41 guardian, or custodian.
- 42 i. Who has been the subject of or a party to sexual  
43 activities for hire or who poses for live display or for  
44 photographic or other means of pictorial reproduction  
45 or display which is designed to appeal to the prurient  
46 interest and is patently offensive; and taken as a whole,  
47 lacks serious literary, scientific, political or artistic  
48 value.
- 49 j. Who is without a parent, guardian or other custodian.
- 50 k. Whose parent, guardian, or other custodian for

1 good cause desires to be relieved of his or her care  
2 and custody.  
3 1. Who is without proper parental care because  
4 of the emotional, mental, or physical disability, or  
5 state of immaturity of his or her parents, guardian,  
6 or other custodian.  
7 m. Who absents himself or herself from his or her  
8 residence:  
9 (1) Without just cause for such absence, and;  
10 (2) Without the consent of the parent, guardian  
11 or custodian; and  
12 (3) In such a manner as to become exposed to  
13 conditions harmful to his or her development or welfare.  
14 n. Who refuses to attend school regularly as  
15 required by the compulsory education laws of this state  
16 although having been offered by his or her school  
17 system every reasonable opportunity to do so."  
18 2. By renumbering the remaining paragraphs and  
19 correcting internal cross references as may be required  
20 by this amendment.

S-5068 FILED - *Loss 1/24 (p. 145)* BY GENE W. GLENN  
JANUARY 24, 1978  
*Amended by S. 1/21 (1977)*

HOUSE FILE 248

S-5070

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 3, by inserting after line 11 a new  
4 paragraph as follows:  
5 "j. Whose parent, guardian, or other custodian  
6 for good cause desires to be relieved of his or her  
7 care and custody."

S-5070 FILED - *adopted 1/26 (166)* BY E. KEVIN KELLY  
JANUARY 24, 1978

HOUSE FILE 248

S-5062

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 Page 25, line 24, by striking the words "upon  
4 their demand"

S-5062 FILED - *Adopted 1/27 (177)* BY TOM SLATER  
JANUARY 24, 1978

HOUSE FILE 248

S-5063

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 16, by inserting after line 1 the  
4 following new paragraph:  
5 "e. The child has previously run away on two  
6 separate occasions from a shelter care facility."  
7 2. By renumbering the remaining paragraphs and  
8 correcting internal cross references as may be required  
9 by this amendment.

S-5063 FILED - *Rule out of order with the adoption of 5004 & 5076 1/27 (177)* BY TOM SLATER  
JANUARY 24, 1978

HOUSE FILE 248

S-5064

1 Amend S-5004, the Judiciary Committee amendment,  
2 to House File 248 as amended, passed and reprinted by  
3 the House as follows:  
4 1. Page 2, by inserting after line 30 the following  
5 new paragraph:  
6 "31. Page 16, by inserting after line 1 the  
7 following new sub-paragraph:  
8 "e. There is probable cause to believe the child  
9 has run away from his or her residence and would not  
10 voluntarily remain at a shelter care facility,"  
11 2. By renumbering the remaining paragraphs, and  
12 correcting internal cross references as may be required  
13 by this amendment.

S-5064 FILED - *Adopted 1/25 (153)* BY GENE W. GLENN  
JANUARY 24, 1978  
*motion reconsidered lost 2/1 (211)*

HOUSE FILE 248

S-5061

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:

3 1. Page 34, by striking lines 13 through 19 and  
4 inserting in lieu thereof the following:

5 "6. Statements or other evidence derived directly  
6 or indirectly from statements which a child makes  
7 to a law enforcement officer while in custody without  
8 presence of counsel may be admitted into evidence

9 at an adjudicatory hearing only after the court  
10 determines whether the child has voluntarily waived  
11 the right to remain silent. In making its  
12 determination the court may consider any factors it  
13 finds relevant and shall consider the following  
14 factors:

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

17 b. The age of the child.

18 c. The child's level of education.

19 d. The child's level of intelligence.

20 e. Whether the child was advised of his or her  
21 constitutional rights.

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

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

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

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

33 2. By renumbering the subsections and paragraphs  
34 as necessary to conform to this amendment.

S-5061 FILED - *Adopted as amended* BY MINNETTE F. DODERER  
JANUARY 24, 1978 *by 5104 1/30 (p.187)*

HOUSE FILE 248

S-5055

- 1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:
- A 3 1. Page 1, by striking lines 1 through 10.  
4 2. Page 2, lines 17 and 35, by striking the word  
B 5 "minimal" and inserting in lieu thereof the word  
6 "reasonable".
- B 7 3. Page 8, by striking lines 18 through 22.  
8 4. Page 9, by striking line 23 and inserting in  
9 lieu thereof the following: "the divestment by the  
10 court of the parent's and child's privileges,".  
11 5. Page 11, line 3, by striking the words "of  
12 transfer" and inserting in lieu thereof the words  
13 "of transfer,".
- 14 6. Page 15, line 13, by striking the words "hold  
15 the child until his or her" and inserting in lieu  
16 thereof the words "provide care, shelter and  
17 supervision until the child's".
- 18 7. Page 15, line 16, by striking the words "hold  
19 the child for" and inserting in lieu thereof the words  
20 "provide care, shelter and supervision prior to the  
21 child's".
- E 22 8. Page 19, by striking lines 6 through 8.  
23 9. Page 24, by striking lines 23 through 29 and  
24 inserting in lieu thereof the following: "At any  
C 25 time during the proceedings, the court, on the motion  
26 of any of the parties or upon the court's own motion,  
27 may exclude the public from hearings under this  
28 division if the court determines that the possibility  
29 of damage or harm to the juvenile outweighs the  
30 public's interest in having an open hearing. Upon  
31 closing the hearing to the public, the court may admit  
32 those persons who have direct interest in the case  
33 or in the work of the court."

S-5055 FILED  
JANUARY 23, 1978

BY RICHARD R. RAMSEY

- B- Lost 1/26 (p. 165)  
A- Adopted as amended by 5091 1/26 (166)  
C- adopted 1/26 (166)  
D- adopted 1/26 (166)  
E- Withdrawn 1/26 (166)  
F- adopted 1/26 (166)

HOUSE FILE 248

S-5053

1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 10, line 15, by striking the words and  
4 figure "one hundred twenty-three (123)",  
5 2. Page 10, by striking lines 18 through 21 and  
6 inserting in lieu thereof the following: "an adult,  
7 and".

S-5053 FILED *Subl out of order* BY RICHARD R. RAMSEY  
JANUARY 23, 1978 *1/29 (g) 1978*

HOUSE FILE 248

S-5054

1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
A 3 1. Page 7, by striking lines 11 and 12 and  
4 inserting in lieu thereof the following: "facility  
5 in which children may be placed pursuant to an order  
6 of the court made in accordance with the provisions  
7 of this Act".  
B 8 2. Page 8, by striking lines 33 and 34 and  
9 inserting in lieu thereof the following: "facility  
10 in which children may be placed pursuant to an order  
11 of the court made in accordance with the provisions  
12 of this Act".

S-5054 FILED BY RICHARD R. RAMSEY  
JANUARY 23, 1978  
B. *Withdrawn 1/30 (g) 1978*  
A. *Adopted*

HOUSE FILE 248

S-5057

1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 21, by striking lines 21 through 25 and  
4 inserting in lieu thereof the following: "officer  
5 may file a petition or may submit a written request  
6 for the filing of a petition to the county attorney."

S-5057 FILED *w/2 1/30 (100)* BY RICHARD R. RAMSEY  
JANUARY 23, 1978

S-5049

- 1 Amend House File 248, as amended, passed and re-  
2 printed by the House, as follows:
- 3 1. Page 4, by striking lines 15 and 16.
  - 4 2. Page 6, line 29, by striking the word "de-  
5 linquent" and inserting in lieu thereof the words  
6 "to have committed a delinquent act".
  - 7 3. Page 7, line 11, by striking the word  
8 "delinquent" and inserting in lieu thereof the words  
9 "to have committed a delinquent act".
  - 10 4. Page 8, line 11, by striking the word  
11 "delinquent" and inserting in lieu thereof the words  
12 "to have committed a delinquent act".
  - 13 5. Page 8, line 33, by striking the word  
14 "delinquent" and inserting in lieu thereof the words  
15 "to have committed a delinquent act".
  - 16 6. Page 9, line 27, by striking the words "be  
17 delinquent" and inserting in lieu thereof the words  
18 "have committed a delinquent act".
  - 19 7. Page 10, line 1, by striking the words "be  
20 a delinquent" and inserting in lieu thereof the words  
21 "have committed a delinquent act".
  - 22 8. Page 11, line 4, by striking the words "to  
23 be or".
  - 24 9. Page 11, line 5, by striking the words "been  
25 a delinquent child" and inserting in lieu thereof  
26 the words "committed a delinquent act".
  - 27 10. Page 18, line 7, by striking the words "a  
28 child to be a delinquent" and inserting in lieu thereof  
29 the words "that a child has committed a delinquent  
30 act".
  - 31 11. Page 18, line 17, by striking the words "is  
32 a delinquent" and inserting in lieu thereof the words  
33 "has committed a delinquent act".
  - 34 12. Page 21, line 14, by striking the words "is  
35 a delinquent under this Act" and inserting in lieu  
36 thereof the words "has committed a delinquent act".
  - 37 13. Page 21, line 15, by inserting after the word  
38 "alleging" the word "that".
  - 39 14. Page 21, line 16, by striking the words "to be  
40 delinquent" and inserting in lieu thereof the words  
41 "has committed a delinquent act".
  - 42 15. Page 21, line 18, by inserting after the word  
43 "alleging" the word "that".
  - 44 16. Page 21, line 19, by striking the words "to  
45 be delinquent" and inserting in lieu thereof the words  
46 "has committed a delinquent act".
  - 47 17. Page 29, line 35, by striking the words "that  
48 alleges" and inserting in lieu thereof the words  
49 "which alleges that".
  - 50 18. Page 30, line 1, by striking the words "to

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PAGE 2

- 1 be delinquent" and inserting in lieu thereof the words
- 2 "has committed a delinquent act".
- 3 19. Page 31, line 3, by striking the word
- 4 "delinquent" and inserting in lieu thereof the words
- 5 "to have committed a delinquent act".
- 6 20. Page 33, line 34, by striking the words "be
- 7 delinquent" and inserting in lieu thereof the words
- 8 "have committed a delinquent act".
- 9 21. Page 34, lines 30 and 31, by striking the
- 10 words "engaged in delinquent conduct" and inserting
- 11 in lieu thereof the words "committed a delinquent
- 12 act".
- 13 22. Page 35, line 5, by striking the words "be
- 14 a delinquent child" and inserting in lieu thereof
- 15 the words "have committed a delinquent act".
- 16 23. Page 37, line 16, by striking the words "a
- 17 delinquent" and inserting in lieu thereof the words
- 18 "to have committed a delinquent act".
- 19 24. Page 37, line 18, by striking the words
- 20 "DELINQUENT CHILD" and inserting in lieu thereof the
- 21 words "A CHILD ADJUDICATED TO HAVE COMMITTED A
- 22 DELINQUENT ACT".
- 23 25. Page 40, lines 18 and 19, by striking the
- 24 words "for which the child is alleged to be delinquent"
- 25 and inserting in lieu thereof the words "which the
- 26 child has been found by the court to have committed".

S-5049 FILED - *Adopted 1/27 (p 175)* BY RICHARD R. RAMSEY  
JANUARY 23, 1978

HOUSE FILE 248

S-5048

- 1 Amend House File 248 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 62, line 30, by striking the words "or
- 4 custodian" and inserting in lieu thereof the words
- 5 ", custodian or probation officer, the department
- 6 of social services, county attorney".

S-5048 FILED - *Lost 1/30 (p 129)* BY RICHARD R. RAMSEY  
JANUARY 23, 1978 FORREST V. SCHWENGELS

HOUSE FILE 248

S-5040

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 73, line 32, by striking the words "may  
4 properly" and inserting in lieu thereof the word  
5 "shall".  
6 2. Page 73, line 33, by inserting after the word  
7 "exist" the words ", except when such reply is made  
8 to an inquiry pursuant to subsection six (6) of this  
9 section".

S-5040 FILED - *Adopted 1/30 (p. 124)* BY PHILIP B. HILL  
JANUARY 23, 1978

HOUSE FILE 248

S-5041

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 17, line 26, by striking the word "subsec-  
4 tions" and inserting in lieu thereof the word  
5 "paragraphs".  
6 2. Page 17, line 27, by striking the word "section"  
7 and inserting in lieu thereof the word "subsection".  
8 3. Page 30, line 12, by striking the word and  
9 figure "eighteen (18)" and inserting in lieu thereof  
10 the word and figure "seventeen (17)".  
11 4. Page 77, by inserting after line 6 the following  
12 section:  
13 "Sec. \_\_\_\_ . Section three hundred thirty-six B  
14 point two (336B.2), Code 1977 Supplement, is amended  
15 to read as follows:  
16 336B.2 FINANCIAL STATEMENT. Before an attorney  
17 is appointed under the provisions of sections 68.8,  
18 145.17, 145.19, 222.22, 232-28 this Act, or rule 8,  
19 rules of criminal procedure, or to represent any per-  
20 son charged with a crime in this state, the court  
21 shall require the client, or his or her parent,  
22 guardian, or custodian to complete under oath a  
23 detailed financial statement."

S-5041 FILED - *Adopted 1/27 (177)* BY PHILIP B. HILL  
JANUARY 23, 1978

HOUSE FILE 248

S-5042

1 Amend House File 248, as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 79, by striking line 25 and inserting  
4 in lieu thereof the word and figures "July 1, 1979."

S-5042 FILED - *Adopted 1/30 (p. 189)* BY PHILIP B. HILL  
JANUARY 23, 1978

HOUSE FILE 248

S-5046

1 Amend House File 248 as amended, passed and  
A 2 reprinted by the House as follows:  
3 1. Page 39, line 5, by striking the word  
4 "custody" and inserting in lieu thereof the word  
5 "guardianship".  
B 6 2. Page 54, line 19, by inserting after the word  
7 "services" the words "and if the court orders the child  
8 placed at the Juvenile Home at Toledo, the order shall  
9 transfer guardianship to the department".

S-5046 FILED BY E. KEVIN KELLY  
JANUARY 23, 1978

*A. Held in session 1/31 (p. 201)*  
*B. Adopted as amended by 5099 1/31 (p. 201)*

HOUSE FILE 248

S-5050

1 Amend S-5004, the Judiciary Committee amendment,  
2 to House File 248 as amended, passed and reprinted  
3 by the House, as follows:  
4 1. Page 6, by striking lines 34 and 35 and  
5 inserting in lieu thereof the following: "'privilege  
6 attaching to confidential" and inserting in lieu  
7 thereof the words "prohibition upon admissibility  
8 of".

S-5050 FILED - *Adopted 1/26 (164)* BY PHILIP B. HILL  
JANUARY 23, 1978

S-5039

- 1 Amend the Committee on Judiciary amendment to House
- 2 File 248 (S-5004) as follows:
- 3 1. By striking everything after page 1, line 2
- 4 and inserting in lieu thereof the following:
- 5 "1. Page 1, by striking lines 11 through 17.
- 6 2. Page 1, line 26, by striking the words "carried
- 7 out" and inserting in lieu thereof the word
- 8 "evidenced".
- 9 3. Page 1, by striking lines 28 through 34 and
- 10 inserting in lieu thereof the words "any particular
- 11 period of time."
- 12 4. Page 2, by striking lines 3 and 4 and inserting
- 13 in lieu thereof the following:
- 14 "4. "Child" means a person under eighteen years
- 15 of age."
- 16 5. Page 2, line 5, by striking the word "a" and
- 17 inserting in lieu thereof the words "an unmarried".
- 18 6. Page 2, line 9, by striking the word "child"
- 19 and inserting in lieu thereof the word "child;".
- 20 7. Page 2, by striking line 23 and inserting in
- 21 lieu thereof the words "or prevent serious physical
- 22 injury".
- 23 8. Page 2, by striking line 26 and inserting in
- 24 lieu thereof the words "to do so or has refused other
- 25 means made available to provide treatment."
- 26 9. Page 2, line 28, by striking the word "disorder"
- 27 and inserting in lieu thereof the word "disorder,".
- 28 10. Page 2, by striking lines 32 and 33 and
- 29 inserting in lieu thereof the words "although
- 30 financially able to do so or has refused other means
- 31 made available to provide treatment."
- 32 11. Page 3, by striking line 2 and inserting in
- 33 lieu thereof the words ", or refuses other means made
- 34 available to provide treatment."
- 35 12. Page 5, lines 2, 3, 12, 14, 19 and 24, by
- 36 striking the word "minor".
- 37 13. Page 6, line 12, by adding after the word
- 38 "complaints" the words "by an intake officer".
- 39 14. Page 6, line 16, by striking the word
- 40 "authorized" and inserting in lieu thereof the words
- 41 "or other officer appointed".
- 42 15. Page 9, line 19, by inserting after the word
- 43 "adult." the words "The taking into custody of a child
- 44 is subject to all constitutional and statutory
- 45 protections which are afforded an adult upon arrest."
- 46 16. Page 10, line 18, by inserting after the word
- 47 "curfew" the words "or traffic".
- 48 17. Page 10, by striking lines 24 through 26.
- 49 18. Page 11, lines 12 and 13, by striking the
- 50 words "The juvenile court shall waive jurisdiction

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- 1 upon motion by the child."
- 2 -19. Page 12, line 16, by inserting after the word  
3 "Act" the words "provided that the alleged delinquent  
4 act constitutes a serious or aggravated misdemeanor  
5 or felony under the Iowa Code".
- 6 -20. Page 12, line 17, by striking the words "the  
7 intake stage" and inserting in lieu thereof the word  
8 "intake".
- 9 -21. Page 12, line 18, by striking the words "at  
10 an interview".
- 11 -22. Page 12, line 35, by striking all after the  
12 word "of" and inserting in lieu thereof the word  
13 "age."
- 14 -23. Page 13, by striking lines 1 through 4.
- 15 -24. Page 14, by inserting after line 2 the  
16 following new subsection:  
17 "6. Nothing in this section shall be construed  
18 to prevent the child or the child's parent, guardian  
19 or custodian from retaining counsel to represent the  
20 child in proceedings under division two (II) of this  
21 Act in which the alleged delinquent act constitutes  
22 a simple misdemeanor under the Iowa Code."
- 23 -25. Page 14, line 8, by striking the word  
24 "delinquency".
- 25 -26. Page 14, line 9, by inserting after the word  
26 "proceedings" the words "under Division two (II) of  
27 this Act".
- 28 -27. Page 14, by striking lines 20 through 22.
- 29 -28. Page 14, by striking lines 30 through 32 and  
30 inserting in lieu thereof the words "custodian as  
31 soon as possible. Unless the".
- 32 -29. Page 15, line 6, by striking the words "and  
33 retained".
- 34 -30. Page 15, line 11, by striking the words "or  
35 remain".
- 36 -31. Page 16, line 1, by striking the words "himself  
37 or herself" and inserting in lieu thereof the words  
38 "the child".
- 39 -32. Page 16, line 1, by striking the word  
40 "another." and inserting in lieu thereof the following:  
41 "another; or  
42 (3) There is a serious risk that the child if  
43 released may commit serious damage to the property  
44 of others."
- 45 -33. Page 16, by striking lines 2 through 5.
- 46 -34. Page 17, line 25, by striking the word  
47 "extreme" and inserting in lieu thereof the word  
48 "serious".
- 49 -35. Page 17, line 25, by inserting after the word  
50 "public" the words "or to the property of others".

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

6 -37. Page 18, by striking lines 11 through 23.

7 -38. Page 19, by inserting after line 15 the follow-  
8 ing:

9 "\_\_\_\_\_. The intake officer, after consultation with  
10 the county attorney when necessary, shall determine  
11 whether the complaint is legally sufficient for the  
12 filing of a petition. A complaint shall be deemed  
13 legally sufficient for the filing of a petition if  
14 the facts as alleged are sufficient to establish the  
15 jurisdiction of the court and probable cause to believe  
16 that the child is a delinquent. If the intake officer  
17 determines that the complaint is legally sufficient  
18 to support the filing of a petition, the officer shall  
19 determine whether the interests of the child and the  
20 public will best be served by the dismissal of the  
21 complaint, the informal adjustment of the complaint,  
22 or the filing of a petition."

23 -39. Page 19, line 26, by striking the word and  
24 figure "fifteen (15)" and inserting in lieu thereof  
25 the word and figure "fourteen (14)".

26 -40. Page 19, lines 31 and 32, by striking the  
27 word and figure "sixteen (16)" and inserting in lieu  
28 thereof the word and figure "fifteen (15)".

29 -41. Page 20, line 21, by striking the word "six"  
30 and inserting in lieu thereof the word "three".

31 -42. Page 20, line 31, by striking the word "six"  
32 and inserting in lieu thereof the word "three".

33 -43. Page 20, line 33, by inserting after the word  
34 "into." the following sentence: "The informal  
35 adjustment shall not be admissible in proceedings  
36 on such a petition."

37 -44. Page 21, line 3, by striking the words "every  
38 six months" and inserting in lieu thereof the word  
39 "annually".

40 -45. Page 23, lines 2 and 10, by striking the word  
41 and figure "five (5)" and inserting in lieu thereof  
42 the word and figure "six (6)".

43 -46. Page 23, by striking line 3 and inserting  
44 in lieu thereof the following:

45 "2. Notice of the pendency of the".

46 -47. Page 23, line 4, by inserting after the word  
47 "case" the words "shall be".

48 -48. Page 23, line 6, by striking the words "The  
49 court shall also".

50 -49. Page 23, line 7, by striking the words "have

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- 1 notice" and inserting in lieu thereof the words "Notice  
2 shall also be".
- 3 -50. Page 24, line 27, by striking the word "shall"  
4 and inserting in lieu thereof the word "may".
- 5 -51. Page 24, line 28, by striking the words "in  
6 its discretion".
- 7 -52. Page 25, by inserting after line 10 the follow-  
8 ing new section:
- 9 "Sec. \_\_\_\_ . NEW SECTION. CONTINUANCES.
- 10 Continuances in juvenile delinquency proceedings may  
11 be granted by the court only for good cause shown  
12 on the record if the child is being held in detention."
- 13 -53. Page 26, lines 2, 4 and 5, by striking the  
14 word "defendant" and inserting in lieu thereof the  
15 word "child".
- 16 -54. Page 26, line 15, by striking the word  
17 "indicate" and inserting in lieu thereof the word  
18 "state".
- 19 -55. Page 30, line 3, by inserting after the word  
20 "attorney" the words "or the child".
- 21 -56. Page 30, line 4, by striking the words  
22 "jurisdiction over" and lines 5 and 6 and inserting  
23 in lieu thereof the word "jurisdiction."
- 24 -57. Page 30, line 7, by striking the words "without  
25 a jury".
- 26 -58. Page 30, line 14, by striking the word and  
27 figure "eighteen (18)" and inserting in lieu thereof  
28 the word and figure "seventeen (17)".
- 29 -59. Page 30, line 21, by inserting after the word  
30 "court." the following sentence: "The report shall  
31 include any recommendations made concerning waiver."
- 32 -60. Page 31, by striking lines 26 through 31.
- 33 -61. Page 32, by striking line 7 through 9 and  
34 inserting in lieu thereof the words "sentence provided  
35 section two hundred four point four hundred thirteen  
36 (204.413), Code 1977 Supplement, shall not".
- 37 -62. Page 34, by striking lines 15 through 19.
- 38 -63. Page 35, by striking lines 10 through 14.
- 39 -64. Page 35, line 30, by striking the words "except  
40 as otherwise provided".
- 41 -65. Page 36, by striking lines 4 and 5 and  
42 inserting in lieu thereof the word "child."
- 43 -66. Page 36, line 9, by inserting after the word  
44 "hearing" the words "which may be simultaneous with  
45 the adjudicatory hearing".
- 46 -67. Page 36, line 30, by striking the word  
47 "petition" and inserting in lieu thereof the word  
48 "matter".
- 49 -68. Page 37, line 2, by inserting after the word  
50 "ILL" words "OR MENTALLY RETARDED".

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1 -69. Page 37, by striking line 7 and inserting  
2 in lieu thereof the words "guardian to initiate civil  
3 commitment proceedings in the juvenile court. Such  
4 proceedings shall adhere to the requirements of chapter  
5 two hundred".

6 -70. Page 37, by striking line 13 and inserting  
7 in lieu thereof the words "initiate civil commitment  
8 proceedings in the juvenile court. Such proceedings  
9 shall adhere to the requirements of chapter two hundred  
10 twenty-two".

11 -71. Page 37, line 25, by striking the word  
12 "assignments" and inserting in lieu thereof the word  
13 "assignments,".

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

18 -73. Page 40, line 23, by striking the word and  
19 figure "three (3)" and inserting in lieu thereof the  
20 word and figure "four (4)".

21 -74. Page 40, by striking line 35 and lines 1 and  
22 2, page 41.

23 -75. Page 41, line 10, by inserting after the word  
24 "paragraph" the words "a or".

25 -76. Page 41, line 21, by striking the word "para-  
26 graphs" and inserting in lieu thereof the word  
27 "paragraph".

28 -77. Page 41, by striking line 22 and inserting  
29 in lieu thereof the following: "c, of this Act, the  
30 court may grant a motion of".

31 -78. Page 41, line 23, by striking the words "or  
32 agency".

33 -79. Page 41, line 27 by striking the word "the"  
34 and lines 28 and 29 and inserting in lieu thereof  
35 the following: "all parties, and a hearing shall  
36 be held at the request of any party."

37 -80. Page 41, by inserting after line 29 the  
38 following new paragraph:

39 "Notwithstanding the dispositional order, an agency,  
40 facility, or institution to whom custody has been  
41 granted under section thirty-one (31), subsection  
42 four (4), paragraphs c, d, or e, of the Code may  
43 terminate the order and discharge the child, modify  
44 the order by imposing less restrictive conditions,  
45 or vacate the order and substitute a less restrictive  
46 order without leave of court."

47 -81. Page 42, line 25, by striking the word and  
48 figure "eighteen (18)" and inserting in lieu thereof  
49 the word and figure "seventeen (17)".

50 -82. Page 44, line 7, by striking the words "or

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1 any other".

2 -83. Page 45, line 16, by striking the word and  
3 figure "nine (39)" and inserting in lieu thereof the  
4 word and figure "eight (38)".

5 -84. Page 45, line 23, by striking the word and  
6 figure "thirty-nine (39)" and inserting in lieu thereof  
7 the word and figure "thirty-eight (38)".

8 -85. Page 46, by striking lines 5 through 7.

9 -86. Page 46, by inserting after line 25 the  
10 following new section:

11 "Sec.         . NEW SECTION. RETENTION AND SHELTER  
12 CARE OF RUNAWAY.

13 1. A peace officer may remove a child to a shelter  
14 facility when:

15 a. that officer has reasonable grounds to believe  
16 that the child has run away from his or her parents,  
17 guardian or other custodian; and

18 b. the child is not currently residing in an  
19 environment deemed adequate by the department.

20 Such child may be placed in a secure detention  
21 facility for not more than twenty-four hours when  
22 there is probable cause to believe the child will  
23 not voluntarily remain at a shelter care facility.

24 2. When a peace officer removes a child to shelter  
25 care or secure detention facility under the provisions  
26 of subsection one (1) of this section, that officer  
27 shall notify the child's parent, guardian or custodian  
28 as soon as possible.

29 3. A child placed in shelter care or secure  
30 detention facility under this section may be sheltered  
31 for up to forty-eight hours until a parent, guardian,  
32 or custodian assumes custody, or until other provi-  
33 sions are arranged for care of the child."

34 -87. Page 47, line 2, by striking the word and  
35 figure "seventy-two (72)" and inserting in lieu thereof  
36 the word and figure "seventy-three (73)".

37 -88. Page 47, line 14, by striking the word "should"  
38 and inserting in lieu thereof the word "may".

39 -89. Page 48, line 1, by striking the word and  
40 figure "seventeen (17)" and inserting in lieu thereof  
41 the word and figure "sixteen (16)".

42 -90. Page 48, line 3, by striking the word and  
43 figure "seventeen (17)" and inserting in lieu thereof  
44 the word and figure "sixteen (16)".

45 -91. Page 48, line 10, by striking the word and  
46 figure "eighteen (18)" and inserting in lieu thereof  
47 the word and figure "seventeen (17)".

48 -92. Page 48, line 32, by striking the word and  
49 figure "nineteen (19)" and inserting in lieu thereof  
50 the word and figure "eighteen (18)".

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- 1 -93. Page 49, line 12, by inserting after the word  
2 "or" the words "electronic or".
- 3 -94. Page 50, line 30, by striking the words  
4 "privilege attaching to" and inserting in lieu thereof  
5 the words "prohibition upon".
- 6 -95. Page 51, line 26, by striking the word  
7 "licnesed" and inserting in lieu thereof the word  
8 "licensed".
- 9 -96. Page 52, by inserting after line 13 the  
10 following new paragraph:  
11 "The hearing required by this section may be held  
12 simultaneously with the adjudicatory hearing."  
13 -97. Page 52, by striking lines 23 and 24.
- 14 -98. Page 54, line 7, by inserting after the word  
15 "make" the words "not more than two".
- 16 -99. Page 55, line 17, by striking the word and  
17 figure "six (6)" and inserting in lieu thereof the  
18 word and figure "five (5)".
- 19 -100. Page 56, line 1, by inserting after the word  
20 "months" the words "except with leave of court for  
21 good cause shown".
- 22 -101. Page 56, line 14, by striking the word and  
23 figure "eighteen (18)" and inserting in lieu thereof  
24 the word and figure "seventeen (17)".
- 25 -102. Page 56, by striking lines 31 through 33  
26 and inserting in lieu thereof the word "Act."
- 27 -103. Page 57, line 28, by striking the word and  
28 figure "forty-one (41)" and inserting in lieu thereof  
29 the word and figure "forty-two (42)".
- 30 -104. Page 57, line 29, by striking the word  
31 "department" and inserting in lieu thereof the word  
32 "department,".
- 33 -105. Page 57, line 33, by striking the word and  
34 figure "forty-one (41)" and inserting in lieu thereof  
35 the word and figure "forty-two (42)".
- 36 -106. Page 58, line 12, by striking the word and  
37 figure "ten (10)" and inserting in lieu thereof the  
38 word and figure "sixty-three (63)".
- 39 -107. Page 59, lines 23 and 27, by inserting after  
40 the word "physically" the words "or sexually".
- 41 -108. Page 61, by striking lines 12 through 14  
42 and inserting in lieu thereof the following:  
43 "If the court terminates the parental rights of  
44 the child's natural or adoptive parents, the court  
45 shall transfer the guardianship".
- 46 -109. Page 61, line 24, by striking the word and  
47 figure "six (6)" and inserting in lieu thereof the  
48 word and figure "five (5)".
- 49 -110. Page 61, line 29, by striking the word "and"  
50 and inserting in lieu thereof the word "or".

ADOPTION OF REPORT OF CONFERENCE COMMITTEE  
(House File 248)

Jesse of Polk offered the following report of the conference committee on House File 248 and moved the adoption of the conference committee report and the amendments contained therein:

REPORT OF THE CONFERENCE COMMITTEE  
ON HOUSE FILE 248

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the differences between the Senate and the House of Representatives on House File 248 as amended, passed and reprinted by the House, a bill for an act relating to a complete revision of the juvenile justice laws and subjecting persons to existing penalties, respectfully make the following report:

1. That the House recede from its amendment S-5370 to Senate amendment H-5335 to House File 248 as amended, passed and reprinted by the House.

2. That the Senate amendment H-5335 to House File 248 as amended, passed and reprinted by the House be amended as follows:

1. Page 1, line 26, by inserting after the word "suffered" the words "or is imminently likely to suffer".

2. Page 2, by striking lines 16 through 31.

3. Page 2, by striking lines 36 through 40.

4. Page 3, by striking lines 36 through 39 and inserting in lieu thereof the following:

"\_\_\_\_. Page 10, by striking line 15 and inserting in lieu thereof the following: "six (106), one hundred six A (106A), one hundred nine (109), one hundred ten (110), one hundred ten A (110A), one hundred ten B (110B), one hundred eleven (111), three hundred"."

5. Page 3, by striking lines 40 and 41 and inserting in lieu thereof the following:

"\_\_\_\_. Page 10, by inserting after line 23 the following: "The court may advise appropriate juvenile authorities and may refer violations of chapter one hundred twenty-three (123) of the Code to the juvenile court when there is reason to believe that the child regularly abuses alcohol and may be in need of treatment." "

6. Page 4, by inserting after line 8 the following:

"\_\_\_\_. Page 11, by inserting after line 24 the following new section:

"Sec. \_\_\_\_ . NEW SECTION. MOTION FOR CHANGE OF JUDGE. Prior to a hearing pursuant to sections twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-nine (29) or thirty-three (33) of this Act, 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." "

7. Page 4, by striking lines 22 through 24 and inserting in lieu thereof the following:

" \_\_\_\_ . Page 12, by striking lines 34 and 35 and inserting in lieu thereof the following: "one (1) of this section shall not be waived by the child without the written consent of the child's parent, guardian or custodian." "

8. By striking page 4, line 39 through page 6, line 11 and inserting in lieu thereof the following:

" \_\_\_\_ . By striking page 14, line 14 through page 18, line 2 and inserting in lieu thereof the following new sections:

"Sec. 9. NEW SECTION. 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 for the purpose of reuniting a child with the child's family or removing the child to a shelter care facility when the peace officer has reasonable grounds to believe the child has run away from his or her parents, guardian, or custodian.

d. By a peace officer, juvenile probation 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 one (1) of this section the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. Unless the child is placed in shelter care or detention in accordance with the provisions of sections eleven (11) or twelve (12) of this Act, 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.

Sec. 10. NEW SECTION. ADMISSION OF CHILD TO SHELTER CARE OR DETENTION.

1. If a child is taken into custody and not released as provided in section nine (9), subsection two (2), of this Act, the child shall immediately be taken to a detention or shelter care facility as specified in sections eleven (11) or twelve (12) of this Act.

2. When a child is admitted to a detention or shelter care facility the person in charge of the facility or his or her 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.

Sec. 11. NEW SECTION. 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 his or her 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 child may be placed in shelter care as provided in this section only in one of the following facilities:

a. A juvenile shelter care home.

b. A licensed foster home.

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

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

3. When there is reason to believe that a child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to insure 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 a court order authorizing such shelter care. A child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act shall not be held in excess of seventy-two hours in any event.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act with his or her family, a child in need of assistance complaint may be filed pursuant to section forty-one (41) of this Act. Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section sixty-nine (69) of this Act.

Sec. 12. NEW SECTION. PLACEMENT IN DETENTION.

1. No child shall be placed in detention unless:

a. The child is being held under warrant for another jurisdiction; or

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

c. There is probable cause to believe that the child has violated conditions of release imposed under section thirty-three (33) of this Act and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or

d. There is probable cause to believe the child has committed a delinquent act, and:

(1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or

(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; or

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

2. A child may be placed in detention as provided in this section only in one of the following facilities:

a. A juvenile detention home.

b. Any other suitable place designated by the court.

c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act, and if:

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

(2) The child has shown by his or her conduct, habits, or condition that he or she constitutes an immediate and serious danger to himself or herself or to another, or to the property of another and a facility or place enumerated in paragraph a or b of this subsection is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility; and

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

(4) The child is confined in a room entirely separated from adults.

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 thirty-one (31), subsection two (2), paragraph e of this Act while the adjudicated child is awaiting transfer to the disposition placement.

3. No child shall be held in a facility under paragraphs a and b of subsection two (2) of this section for a period in excess of twenty-four hours without a court order authorizing such detention.

4. No child shall be detained in a facility under paragraph c of subsection two (2) of this section for a period in excess of twelve hours without the written order of a judge or a magistrate authorizing such detention."

9. Page 6, line 32, by striking the words "is a delinquent" and inserting in lieu thereof the words "has committed a delinquent act".

10. Page 6, by striking lines 47 through 50.

11. Page 7, by striking lines 45 through 48.

12. Page 8, by inserting after line 6, the following:

" \_\_\_\_ . Page 26, line 4, by inserting after the word "petition" the word "the"."

13. Page 8, line 40, by striking the figures "31." and inserting in lieu thereof the words and figures "31, and inserting in lieu thereof the following:

"9. 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:

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 his or her 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.

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." "

14. Page 12, by striking lines 12 through 14.

15. Page 12, by striking line 18 and inserting in lieu thereof the following: "one (31), subsection two (2), paragraph e".

16. Page 13, by inserting after line 4 the following:

"\_\_\_\_. Page 44, line 4, by striking the word "pendancy" and inserting in lieu thereof the word "pendency"."

17. Page 13, by striking lines 14 through 33.

18. Page 15, by inserting after line 17 the following:

"\_\_\_\_. Page 59, by inserting after line 11 the following new section:

"Sec. \_\_\_\_ NEW SECTION. 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 as guardian ad litem." "

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

"\_\_\_\_. Page 61, by inserting after line 2 the following new paragraph:

"e. That 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."

20. Page 16, line 5 by striking the word "records" and inserting in lieu thereof the words "records, subject to sealing under section seventy-eight (78) of this Act."

HOUSE REPORT OF THE CLERK

MINNETTE A. DODERER  
PHILIP B. HILL  
RICHARD R. RAMSEY

OF THE JOURNAL OF THE HOUSE

NORMAN W. JENSEN, CLERK  
ROBERT T. ANDERSON  
THOMAS J. JOCHUM  
JULIA B. GENTLEMAN  
TERRY E. BRANSTAD

The motion prevailed and the report was adopted:

Jesse of Park moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the yeas and nays the bill passed 92 yeas and 7 nays.

The yeas were, 92:

Anderson	Arnould	Avenson	Baker
Bennett	Bina	Binneboese	Brandt
Branstad	Brunow	Byerly	Chiodo
Clark, B.J.	Clark, J.H.	Conlon	Connors
Crawford	Cusack	Daggett	Davitt
Dieleman	Doyle	Dunton	Dyrland
Egenes	Evans	Fitzgerald	Garrison
Gentleman	Gettings	Gilloon	Gilson
Griffiee	Halvorson	Hansen	Harbor
Hargrave	Harvey	Hines	Hinkhouse
Hoffmann	Horn	Howell	Hullinger
Husak	Jesse	Jochum	Koogler
Krause	Krewson	Lageschulte	Lind
Lindeen	Lipsky	Loneragan	Menke
Middleswart	Millen	Miller, K.D.	Miller (Sergeant)
Monroe	Newhard	Nielsen	Norland
O'Halloran	Oxley	Patchett	Pavich
Pellett	Pelton	Perkins	Rinas
Scheelhaase	Schnekloth	Schroeder	Shimanek
Small	Smalley	Spear	Stephens
Stromer	Svoboda	Tauke	Tofte
Varley	Walter	Welden	Wells
Wesi	Woods	Wyckoff	Mr. Speaker

The nays were, 7:

Danker

Absent or not voting, 7:

Brockett	Crabb	Den Herder	Junker
Poney	Spencer	Thompson	

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

The House stood at ease until the fall of the gavel.

The House resumed session, Speaker Cochran in the chair.

S-5039  
Page 8

- 1       -111. Page 62, line 23, by striking the words "or  
2 any other".
- 3       -112. Page 63, line 5, by inserting after the word  
4 "relationship" the words "and that the petitioner  
5 has sought services from public or private agencies  
6 to maintain and improve the familial relationship".
- 7       -113. Page 63, line 11, by inserting after the  
8 word "guardian." the words "The court shall appoint  
9 counsel for the parent, guardian or custodian if that  
10 person desires but is financially unable to employ  
11 counsel."
- 12       -114. Page 63, line 30, by striking the word  
13 "unsuccessfully".
- 14       -115. Page 64, lines 3 and 4, by striking the words  
15 "such services" and inserting in lieu thereof the  
16 words "any counseling ordered by the court".
- 17       -116. Page 64, line 6, by striking the word  
18 "services" and inserting in lieu thereof the word  
19 "counseling".
- 20       -117. Page 64, by striking lines 25 through 31.
- 21       -118. Page 65, by striking lines 3 through 6.
- 22       -119. Page 69, by striking lines 11 through 15.
- 23       -120. Page 69, by inserting after line 22 the  
24 following new subsection:  
25       "2. Official juvenile court records in cases  
26 alleging delinquency shall be public records."
- 27       -121. Page 69, line 23, by inserting after the  
28 word "records" the words "in all cases except those  
29 alleging delinquency".
- 30       -122. Page 69, line 24, by striking the word "may"  
31 and inserting in lieu thereof the word "shall".
- 32       -123. Page 70, line 12, by striking the words "and  
33 legitimate".
- 34       -124. Page 71, line 11, by striking the words and  
35 figure "seven hundred forty-nine B (749B)" and  
36 inserting in lieu thereof the words and figure "six  
37 hundred ninety-two (692)" and by inserting after the  
38 word "Code" the word "Supplement".
- 39       -125. Page 71, line 35, by striking the word and  
40 figure "seven (7)" and inserting in lieu thereof the  
41 word and figure "nine (9)".
- 42       -126. Page 73, line 6, by striking the words and  
43 figures "seventy-four (74) and seventy-six (76)" and  
44 inserting in lieu thereof the words and figures  
45 "seventy-five (75) and seventy-seven (77)".
- 46       -127. Page 74, by striking line 10 and inserting  
47 in lieu thereof the words and figures "five (75)  
48 through seventy-eight (78)".
- 49       -128. Page 74, line 11, by striking the word and  
50 figure "seven (77)".

HOUSE FILE 248

S-5033

1 Amend House File 248 as amended, passed and  
A 2 reprinted by the House as follows:  
3 1. Page 4, line 5, by inserting after the word  
4 "guardian" the words ", and to the provisions of the  
5 orders of the juvenile court when transferring custody".  
6 -2. Page 9, by inserting after line 24 the  
B 7 following:  
8 " "Type of placement" means a class or  
9 category of foster care identified by recognized  
10 characteristics common to that category."  
C 11 -3. Page 54, line 32, by inserting after the  
12 figure "4." the following: "In any order transferring  
13 custody to the department or an agency, or in orders  
14 pursuant to a custody order, the court may prescribe  
5094-15 the type and time of placement which will serve the  
16 best interests of the child, and shall prescribe the  
17 means by which the placement shall be monitored by the  
18 court."

S-5033 FILED  
JANUARY 19, 1978

BY GENE W. GLENN

A. Withdrawn 1/26 (p. 166)  
B. " 1/27 (174)  
C. Adopted as amended by 5094 1/27 (p. 176)

HOUSE FILE 248

S-5035

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 51, line 25, by inserting after the words  
4 "direct the" the words "probation officer,".

S-5035 FILED - Adopted 1/30 (p. 188) BY GENE W. GLENN  
JANUARY 19, 1978

HOUSE FILE 248

S-5034

1 Amend House File 248 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 29, line 5, by striking the word "seven"  
4 and inserting in lieu thereof the word "fourteen".

S-5034 FILED - Lost 1/30 (p. 186) BY GENE W. GLENN  
JANUARY 19, 1978

S-5039  
Page 9

1 -129. Page 76, by striking lines 9 through 22 and  
2 inserting in lieu thereof the following:

3 "Sec. 87. Section two hundred forty-four point  
4 four (244.4), Code 1977, is amended by striking the  
5 section and inserting in lieu thereof the following:  
6 244.4 PROCEDURE. The procedure for commitment  
7 to said homes shall be the same as provided by this  
8 Act."

9 -130. Page 77, by striking lines 7 through 12 and  
10 inserting in lieu thereof the following:

11 "Sec. 90. Section three hundred fifty-six point  
12 three (356.3), Code 1977, is amended to read as  
13 follows:

14 356.3 MINORS SEPARATELY CONFINED. Any sheriff,  
15 city marshal, or chief of police, having in his or  
16 her care or custody any prisoner under the age of  
17 eighteen years, shall keep such prisoner separate  
18 and apart, and prevent communication by such prisoner  
19 with prisoners above that age, while such prisoners  
20 are not under the personal supervision of such offi-  
21 cer, if suitable buildings or jails are provided for  
22 that purpose, unless such prisoner is likely to or  
23 does exercise an immoral influence over other minors  
24 with whom he or she may be imprisoned.

25 A person under the age of eighteen years prosecuted  
26 under this Act and not waived to criminal court shall  
27 be confined in a jail only under the conditions  
28 provided in this Act.

29 PARAGRAPH DIVIDED. Any officer having charge of  
30 prisoners who without just cause or excuse neglects  
31 or refuses to perform the duties imposed on him or  
32 her by this section may be suspended or removed from  
33 office therefor."

34 -131. Page 79, line 25, by striking the date  
35 "January 1, 1978" and inserting in lieu thereof the  
36 date "July 1, 1979".  
37

S-5039 FILED - *Lot 16-33 1/23 (p. 132)* BY  
JANUARY 19, 1978

PHILIP B. HILL  
MINNETTE DODERER  
EARL M. WILLITS

FISCAL NOTE  
HOUSE FILE 248

Date Prepared March 10, 1977

Requested by Representative Gentleman

Prepared in regard to H.F. 248, An Act relating to a complete revision of the juvenile justice laws and subjecting persons to existing penalties. Following is the fiscal effect in dollars of the legislative proposal as required by Joint Rule 16:

H.F. 248 provides for a complete reorganization of the Code dealing with juveniles. Because the bill involves many areas where there are no cost experience records available, it is not possible to make an exact total cost estimate on this bill. However, the following factors may be considered.

Section 10--Using Department of Social Services statistics, it is estimated that the right to counsel at intake would apply to approximately 14,500 cases each year. Attorneys would be appointed only if parents could not provide one. The estimated cost of this provision would be approximately \$220,000 for intake only.

Section 72 provides for the following to be a charge upon the county: fees and mileage of witnesses, expenses and mileage of officers serving notices and subpoenas, appointed attorneys' fees, advocate fees, foster care, physical or mental examinations and homemaker-health aide costs. Many of these services are a part of the present system and represent no increase in cost. If the parent-child relationship is not terminated, parents may be ordered to pay subject to judgment or lien. Costs in excess of an average of 1974, 1975 and 1976 costs, adjusted by the consumer price index, will be paid by the state. Because the Department of Social Services currently utilizing all the Federal Title XX funds available, any additional services would have to be 100% state funded. No reliable estimate of these costs may be made at present.

Section 73 provides for the maintenance and expenses of juvenile group homes as is presently provided. Approved county or multi-county juvenile homes may be entitled to receive financial aid from the state in the amount and in such manner as determined by the commissioner. Aid paid by the state shall not exceed fifty percent of the total cost of the establishment, improvements, operation and maintenance of such a home.

It should be noted that removal of status offenders will result in savings to the system. Because there is no way to project the intake potential, the best way to develop cost projections and budget needs might be through the courts. The courts would develop their own budgets and fund all services proposed through this mechanism on a purchase of service arrangement with private providers or the Department of Social Services as the court budget constraints and staff limits allow.

Source: Department of Social Services  
Iowa Crime Commission

FILED  
MARCH 22, 1977

GERRY D. RANKIN  
LEGISLATIVE FISCAL BUREAU

EXPLANATION FOR  
JUDICIARY COMMITTEE 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., 17. 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".
13. Provides that only a person designated as intake officer shall perform the intake function.
14. Provides that the judge may appoint someone other than a probation officer as intake officer.
15. Clarifies intent of this section that arrest protections afforded adults must also be given to juveniles.
16. 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.
- 18., 53. Child may not demand waiver to adult court, but has equal standing with county attorney to move the court for such waiver of jurisdiction.
20. Makes clear there is no situational restriction on the right to counsel once intake has commenced.
- 21., 22. 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.
- 25., 83. 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.
26. Removes reference to prohibition on physical restraint of a child during the process of taking into custody.
- 30., 32., 33. Adds potential of serious property damage to reasons for which a child may be placed in a detention facility, or may be held in an adult facility for a limited time without court order.
34. 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.

39., 40. Reduce the maximum duration of informal adjustment agreements from six to three months.

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

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

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

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

58. Strikes per se exclusion of child's statements from use in subsequent court proceedings against the child.

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

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

66., 67. 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.

69. 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.

71. Removes requirement that court acknowledge filing of reports.

73., 74., 75., 76., 77. 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.

79., 108. Remove the attempt to legislate action affecting courts of other states.

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

90. Permits making of record by tape recording.

97. 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.

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

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

110. Extends appointed counsel right to indigent parents in FINA cases.
114. Removes the possibility of placing the child in detention for two weeks as punishment for contempt of court orders in FINA cases.
115. Removes judicial review of juvenile home administration, and leaves all such oversight in the hands of the board of supervisors.
- 116., 117. Provides public access to court records in delinquency cases.
118. Assures the interested parties of access to all juvenile court records.
125. Removes procedures for voluntary commitments to the state juvenile home.
126. Provides that persons confining minors in jails, etc. must comply with the provisions of this bill.

SUMMARY OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT  
OF 1974 INCLUDING IOWA'S STATUS AS REGARDS THAT ACT

The purpose of the Juvenile Justice and Delinquency Prevention Act of 1974 is to address the following issues:

1. To provide an evaluation of all federally assisted juvenile delinquency programs;
2. To provide technical assistance to public and private agencies delivering juvenile delinquency programs;
3. To establish training programs for persons working in the area of juvenile delinquency;
4. To establish a centralized research effort on the problems of juvenile delinquency;
5. To develop and encourage the implementation of national standards for the administration of juvenile justice;
6. To assist states and local communities in the development of programs designed to keep students in elementary and secondary schools; and
7. To establish a federal assistance program to deal with the problems of runaway youth.

The Juvenile Justice and Delinquency Prevention Act is a major thrust for community-based programs for youth. This Act is funded at \$10 million per year for fiscal years 1975, 1976, and 1977 and \$25 million per year for fiscal years 1978, 1979, 1980. These funds are allocated annually to the states based on the proportionate state population under 18 years old. The minimum state allotment is \$225,000. Fifteen percent of the state share may be used in the development of a State Plan for juvenile delinquency as required by the Act. Federal financial participation in approved programs and services is available at a 90% federal/10% state matching rate. Nonfederal participation may be in cash or in kind. Five percent of the minimum allotment to a state must be available for use by a state juvenile delinquency advisory group as required by this Act.

In order to receive federal assistance under this Act, a state must demonstrate compliance with a multitude of requirements. However, the crux of the federal requirements are contained in sections 223A .12, .13, and .14 of the federal Act. Those requirements are as follows:

.12 provide that within three years after submission of the initial state plan that juveniles adjudicated or alleged to be status offenders or Children in Need of Assistance shall not be placed in juvenile detention or correctional facilities.

.13 provide that adjudicated and alleged delinquents, status offenders, and Children in Need of Assistance shall not be detained or confined in any institution in which they have regular contact with incarcerated adults.

.14 provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and nonsecure facilities to insure that the requirements of .12 and .13 are met.

Other requirements for federal funding include the designation of a state planning agency; the formation of a juvenile justice advisory group; provisions so that 2/3's of the available funds are expended through local government or local agencies; provisions for an equitable distribution of funds; provisions for a state-level detailed study of juvenile needs including cost estimates; provisions so that at least 75% of the available funds are used for specified types of juvenile service programs; provisions for the development of research training, and evaluation capacities in the state; and provisions that federal funds will be used to supplement and increase, but not supplant, the state, local, and other nonfederal funds that would be available for juvenile programs.

Iowa is well on the way towards achieving compliance with the Juvenile Justice and Delinquency Prevention Act. The development of the required State Plan is occurring through the Iowa Crime Commission, and is now approaching completion.

Iowa statutes are in compliance with Section 223A.12 and .13 of the federal Act. With the passage of S.F. 358 in 1975, the 66th General Assembly provided that children in need of assistance and status offenders could not be placed in Mitchellville or Eldora the state secure facilities for juveniles. In 1976, the passage of H.F. 1162 provided that truants could not be placed in Eldora or Mitchellville.

The separation of juvenile and adult offenders required by Section 223A.13 is provided for under Iowa Code Sections 356.3, 232.18 and 232.19. The Iowa Crime Commission reports that the monitoring effort required by Section 223A.14 of the federal Act is ongoing. At this time, however, status offenders and children in need of assistance are still held in jails and secure facilities in some areas of Iowa.

The Crime Commission reported that Iowa received approximately \$200,000 in fiscal year 1975, \$360,000 in fiscal year 1976, \$600,000 in fiscal year 1977, and will be eligible to receive \$834,000 in fiscal year 1978. Most of these funds were used for the provision of shelter care. The Crime Commission anticipates that between \$800,000 and \$1.2 million will be available to Iowa in years in the immediate future.

Additionally in H.F. 464, the legislature appropriated \$160,000 for the development of juvenile community-based corrections programs in 1977. These funds were used for a study of local juvenile service needs under OPP as well as for local matching funds in several counties.

CHAPTER 1088  
JUVENILE JUSTICE

H. F. 248

AN ACT relating to a complete revision of the juvenile justice laws and subjecting persons to existing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

## DIVISION 1

Section 1. NEW SECTION. 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 his or her 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 his or her parents, the court shall secure for the child care as nearly as possible equivalent to that which should have been given by the parents.

## DEFINITIONS

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "Abandonment of a child" means the permanent 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. "Child" means a person under eighteen years of age.
5. "Child in need of assistance" means an unmarried child:
  - a. Whose parent, guardian or other custodian has abandoned the child.
  - b. Whose parent, guardian or other custodian 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:
    - (1) Conditions created by the child's parent, guardian, custodian; or

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

d. Who has been sexually abused by his or her 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 or unable 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 or 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, or custodian.

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 his or her care and custody.

l. Who for good cause desires to have his or her parents relieved of his or her care and custody.

6. "Commissioner" means the commissioner of the department of social services or that person's designee.

7. "Complaint" means a verbal 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 in chapter two hundred thirty-one (231) of the Code.

9. "Criminal 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.

10. "Custodian" means a step-parent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to division four (IV), or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child shall be as follows:

- a. To maintain or transfer to another the physical possession of that child.
- b. To protect, train, and discipline that child.
- c. To provide food, clothing, housing, and medical care for that child.
- d. To consent to emergency medical care, including surgery.
- e. To sign a release of medical information to a health professional.

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

11. "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.

12. "Department" means the department of social services and includes the local, county and regional officers of the department.

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

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

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

16. "Dispositional hearing" means a hearing held after an adjudication to determine what dispositional order should

be made.

17. "Family in need of assistance" means a family in which there has been a breakdown in the relationship between a child and his or her parent, guardian or custodian.

18. "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 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 six hundred thirty-three point three (633.3) of the Code, although a person who is appointed to be a guardian may also be appointed to be a conservator.

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:

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

b. 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.

c. To serve as custodian, unless another person has been appointed custodian.

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

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

19. "Guardian ad litem" means a person appointed by the court to represent the interests of the child in any judicial proceeding to which the child is a party.

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

21. "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.

22. "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.

23. "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.

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

25. "Judge" means the judge of a juvenile court.

26. "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 Act 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.

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

28. "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.

29. "Juvenile probation officer" or "probation officer" means a person appointed as a juvenile probation officer under section two hundred thirty-one point eight (231.8) of the Code.

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

31. "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 probation officer for a period during which the child may be required to comply with specified conditions concerning his or her conduct and activities.

32. "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 Act.

33. "Official juvenile court records" or "official records" means official records of the court of proceedings over which the court has jurisdiction under this Act 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.

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

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

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

37. "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.

38. "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.

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

40. "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 probation 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.

41. "Registry" means the central registry for child abuse information as established under chapter two hundred thirty-

five A (235A) of the Code.

42. "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.

43. "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.

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

45. "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 his or her case.

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

47. "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.

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

49. "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.

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

51. "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.

52. "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.

DIVISION II  
JUVENILE DELINQUENCY PROCEEDINGS

PART 1

GENERAL PROVISIONS

Sec. 3. NEW SECTION. JURISDICTION.

1. The juvenile court shall have exclusive original jurisdiction in proceedings concerning any child who is alleged to have committed a delinquent act unless otherwise provided by law, and shall have exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, provided that the taking of that person into custody for the alleged act or the filing of a delinquency petition alleging the commission of the act occurs

(a) Less than one year after the alleged commission of an act which would be a simple misdemeanor if committed by an adult; or

(b) Less than two years after the alleged commission of an act which would be an offense other than a simple misdemeanor if committed by an adult.

Violations by a child of provisions of chapters one hundred six (106), one hundred six A (106A), one hundred nine (109), one hundred ten (110), one hundred ten A (110A), one hundred ten B (110B), one hundred eleven (111), three hundred twenty-one (321), or three hundred twenty-one G (321G) of the Code which would be simple misdemeanors if committed by an adult, violations of county or municipal curfew or traffic ordinances, and violations by a child of the provisions of section one hundred twenty-three point forty-seven (123.47) of the Code, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of chapter one hundred twenty-three (123) of the Code to the juvenile court when there is reason to believe that the child regularly abuses alcohol and may be in need of treatment.

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 one (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 Act and the case shall be processed in accordance with the provisions of this Act.

3. The juvenile court, after a hearing and in accordance with the provisions of section twenty-five (25) of this Act, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult for such offense in another court. If the child pleads guilty or is found guilty of a public offense in another court of this state that court may, 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 not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation the child shall be discharged without entry of judgment.

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

Sec. 4. NEW SECTION. MOTION FOR CHANGE OF JUDGE. Prior to a hearing pursuant to sections twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), thirty (30) or thirty-four (34) of this Act, 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.

Sec. 5. NEW SECTION. 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 minor 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 minor 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.

Sec. 6. NEW SECTION. 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 two (II) of this Act:

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 twenty-four (24) of this Act.

c. A waiver hearing as required by section twenty-five (25) of this Act.

d. An adjudicatory hearing required by section twenty-seven (27) of this Act.

e. A dispositional hearing as required by section thirty (30) of this Act.

f. Hearings to review and modify a dispositional order as required by section thirty-four (34) of this Act.

2. The child's right to be represented by counsel under subsection one (1), paragraphs b through f of this section shall not be waived by a child of any age. The child's right to be represented by counsel under paragraph a of subsection one (1) of this section shall not be waived by the child without the written consent of the child's parent, guardian or custodian.

3. If the child is not represented by counsel as required under subsection one (1) of this section, 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 five (5) of this section.

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 such counsel, who shall be reimbursed according to the provisions of section seventy-five (75), subsection one (1), paragraph d, of this Act.

4. If the child is represented by counsel and the court determines that there is a conflict of interest between the child and his or her 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 five (5) of this section.

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 him or her.

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 division two (II) of this Act in which the alleged delinquent act constitutes a simple misdemeanor under the Iowa Code.

Sec. 7. NEW SECTION. 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.

Sec. 8. NEW SECTION. SUSPENSION OF TIME LIMITATIONS. Where the child requests a continuance of proceedings under division two (II) of this Act, 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.

## PART 2

Sec. 9. NEW SECTION. 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 for the purpose of reuniting a child with the child's family or removing the child to a shelter care facility when the peace officer has reasonable grounds to believe the child has run away from his or her parents, guardian, or custodian.
  - d. By a peace officer, juvenile probation 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 one (1) of this section the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. Unless the child is placed in shelter care or detention in accordance with the provisions of sections eleven (11) or twelve (12) of this Act, 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.

Sec. 10. NEW SECTION. ADMISSION OF CHILD TO SHELTER CARE OR DETENTION.

1. If a child is taken into custody and not released as provided in section nine (9), subsection two (2), of this Act, the child shall immediately be taken to a detention or shelter care facility as specified in sections eleven (11) or twelve (12) of this Act.

2. When a child is admitted to a detention or shelter care facility the person in charge of the facility or his or her 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.

Sec. 11. NEW SECTION. 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 his or her 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 child may be placed in shelter care as provided in this section only in one of the following facilities:

a. A juvenile shelter care home.

b. A licensed foster home.

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

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

3. When there is reason to believe that a child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to insure 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 a court order authorizing such shelter care. A child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act shall not be held in excess of seventy-two hours in any event.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act with his or her family, a child in need of assistance complaint may be filed pursuant to section forty-two (42) of this Act. Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section seventy-one (71) of this Act.

Sec. 12. NEW SECTION. PLACEMENT IN DETENTION.

1. No child shall be placed in detention unless:

- a. The child is being held under warrant for another jurisdiction; or
  - b. The child is an escapee from a juvenile correctional or penal institution; or
  - c. There is probable cause to believe that the child has violated conditions of release imposed under section thirty-four (34) of this Act and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or
  - d. There is probable cause to believe the child has committed a delinquent act, and:
    - (1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or
    - (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; or
    - (3) There is a serious risk that the child if released may commit serious damage to the property of others.
2. A child may be placed in detention as provided in this section only in one of the following facilities:
- a. A juvenile detention home.
  - b. Any other suitable place designated by the court.
  - c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act, and if:
    - (1) The child is at least fourteen years of age; and
    - (2) The child has shown by his or her conduct, habits, or condition that he or she constitutes an immediate and serious danger to himself or herself or to another, or to the property of another and a facility or place enumerated in paragraph a or b of this subsection is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility; and
    - (3) The facility has an adequate staff to supervise and monitor the child's activities at all times; and
    - (4) The child is confined in a room entirely separated from adults.
  - 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 thirty-two (32), subsection two (2), paragraph e of this Act while the adjudicated child is awaiting transfer to the disposition placement.

3. No child shall be held in a facility under paragraphs a and b of subsection two (2) of this section for a period in excess of twenty-four hours without a court order authorizing such detention.

4. No child shall be detained in a facility under paragraph c of subsection two (2) of this section for a period in excess of twelve hours without the written order of a judge or a magistrate authorizing such detention.

PART 3

INTAKE

Sec. 13. NEW SECTION. INTAKE.

1. Any person having knowledge of the facts may file a complaint with the court alleging that a child has committed a delinquent act.

2. The court shall refer the complaint to an intake officer who shall 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 his or her 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 eight (8) of this section.

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 fifteen (15), subsections two (2) and three (3) of this Act.

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

5. Participation of the child and his or her 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 six (6) of this Act 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 fourteen (14) of this Act.

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 juvenile and the public, the officer shall request the county attorney to file a petition in accordance with section fifteen (15) of this Act.

Sec. 14. NEW SECTION. 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 his or her involvement in a delinquent act.

b. The intake officer shall advise the child and his or her 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 his or her 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 probation 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 his or her 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.

#### PART 4

#### JUDICIAL PROCEEDINGS

##### Sec. 15. NEW SECTION. 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.

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 his or her determination and the reasons for such determination, and shall advise the complainant that he or she 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 shall be final. not be filed, the officer's determination shall be final.

Sec. 16. NEW SECTION. CONTENTS OF PETITION.

1. The petition and subsequent court documents shall be entitled "In the interest 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 three (3), paragraphs a and b of this section 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.

Sec. 17. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND SERVICE.

1. After a petition has been filed the court shall set

a time for an adjudicatory hearing and unless the parties named in subsection two (2) of this section 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 him or her 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 six (6) of this Act.

2. Notice of the pendency of the case shall be served upon the known parent, guardian or legal custodian of a child if this person is not summoned to appear as provided in subsection one (1) of this section. 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 six (6) of this Act.

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 delivery of a copy thereof 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 or by publication or both. 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 his or her 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.

Sec. 18. NEW SECTION. 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.

Sec. 19. NEW SECTION. 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 juvenile 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.

Sec. 20. NEW SECTION. 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.

Sec. 21. NEW SECTION. 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 the same as those required in section six hundred twenty-four point nine (624.9) of the Code.

Sec. 22. NEW SECTION. CONTINUANCES. 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.

Sec. 23. NEW SECTION. 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.

Sec. 24. NEW SECTION. DETENTION OR SHELTER CARE HEARING--RELEASE FROM DETENTION UPON CHANGE OF CIRCUMSTANCE.

1. 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 detention or shelter care facility. If the hearing is not held within the time specified, the child shall be released from shelter care or detention. 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.

2. The county attorney or a juvenile probation 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.

3. A notice stating the time, place, and purpose of the hearing shall be served personally 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 twenty-four hours before the time the hearing is scheduled to begin. 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 such notice having been served.

4. At the hearing 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 eleven (11) or twelve (12) of this Act. 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 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 Act, it shall release the child and dismiss the petition.

b. If the court finds that detention or shelter care is not authorized under section eleven (11) or twelve (12) of this Act, 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 eleven (11) or twelve (12) of this Act, including a condition requiring that the child return to custody as required.

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 Act and that full-time detention or shelter care is authorized under section eleven (11) or twelve (12) of this Act, it may issue an order authorizing either shelter care or detention until the adjudicatory hearing is held or for a period not exceeding seven days whichever is shorter.

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.

8. A child held in a detention or shelter care facility 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 probation 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 his or her 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.

Sec. 25. NEW SECTION. 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.

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

3. A notice that states the time, place, and purpose of the waiver hearing shall be issued and served in the same manner as for adjudicatory hearings as provided in section seventeen (17) of this Act. Summons, subpoenas and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section seventeen (17) of this Act.

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 and shall submit a report concerning such 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 if:

a. The child is fourteen years of age or older; and  
b. The court determines, or has previously determined in a detention hearing under section twenty-four (24) of this Act, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense; and

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

7. In making the determination required by subsection six (6), paragraph c, of this section, 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.

8. If at the conclusion of the hearing the court waives its jurisdiction over the child, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

9. 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:

- 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 his or her 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.

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.

10. If the court waives its jurisdiction over the child so that the child may be prosecuted as an adult, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution over the objection of the child.

11. 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 two hundred four (204) of the Code, is waived to district court for prosecution, the mandatory minimum sentence provided in section two hundred four point four hundred thirteen (204.413), Code 1977 Supplement, 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.

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:

a. Five years have elapsed since the final discharge of that person; and

b. 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.

Sec. 26. NEW SECTION. CONSENT DECREE.

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section twenty-seven (27) of this Act, 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 the supervision of the child by a juvenile probation officer or other agency or person designated by the court.

2. A consent decree shall not be entered unless the child and his or her 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.

3. A consent decree shall remain in force for six months unless the child is sooner discharged by the court or by the juvenile probation officer or other agency or person supervising the child. Upon application of a juvenile probation 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 an additional six months by order of the court.

4. 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 three (3) of this section, 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.

5. 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.

Sec. 27. NEW SECTION. 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 his or her 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 his or her 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 against him or her 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.

Sec. 28. NEW SECTION. 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 twenty-seven (27) of this Act until a predisposition report has been submitted to and considered by the court. The court may direct a juvenile probation officer or any other agency or individual to conduct a predisposition investigation and to prepare a predisposition report.

2. A predisposition investigation shall not be conducted prior to the adjudication of the child without the consent of the child and his or her counsel. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing.

3. A predisposition report shall not be disclosed except as provided in this section and in division eight (VIII) of this Act. Prior to the dispositional hearing, the court shall permit the child's attorney to inspect any predisposition report to be considered by the court in making a disposition. The court may in its discretion 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.

Sec. 29. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

1. Following the entry of an order of adjudication under section twenty-seven (27) of this Act 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.

2. When possible an examination shall be conducted on an out-patient 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 two hundred twenty-nine (229) of the Code shall not apply.

3. 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:

a. The court finds such examination to be in the best interest of the child; and

b. The parent, guardian or custodian and the child's counsel agree.

An examination shall be conducted on an out-patient 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 two hundred twenty-nine (229) of the Code shall not apply.

Sec. 30. NEW SECTION. DISPOSITIONAL HEARING.

1. As soon as practicable following the entry of an order of adjudication pursuant to section twenty-seven (27) of this Act, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

2. At that hearing all relevant and material evidence shall be admitted.

3. When the dispositional hearing is concluded the court shall enter an order to make any one or more of the dispositions authorized under section thirty-two (32) of this Act.

Sec. 31. NEW SECTION. DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED CHILD. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile probation 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. Such proceedings shall adhere to the requirements of chapter two hundred twenty-nine (229) of the Code. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile probation 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. Such proceedings shall adhere to the requirements of chapter two hundred twenty-two (222) of the Code. In the event the child is committed as a mentally ill or mentally retarded child, any order adjudicating the child to have committed a delinquent act shall be set aside and the petition shall be dismissed.

Sec. 32. NEW SECTION. DISPOSITION OF CHILD FOUND TO HAVE COMMITTED A DELINQUENT ACT.

1. Pursuant to a hearing as provided in section thirty (30) of this Act, 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 and the child's prior record. 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.

2. The dispositional orders which the court may enter are as follows:

a. An order prescribing a work assignment of value to the state or to the public, or prescribing restitution consisting of monetary payment or a work assignment of value to the victim. Such order may be the sole disposition or may be included as an element in other dispositional orders.

b. An order placing the child on probation and releasing the child to his or her 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 seventy-five (75), subsection two (2) of this Act 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 thirty-four (34) of this Act, 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 social 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.

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction of the court for the purposes of section thirty-four (34) of this Act, to the commissioner of the department of social services for purposes

of placement in the Iowa juvenile home at Toledo, the Iowa training school for boys, the Iowa training school for girls, or other facility provided that:

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

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 two hundred twenty-nine (229) of the Code.

3. 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.

4. 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.

Sec. 33. NEW SECTION. DURATION OF DISPOSITIONAL ORDERS.

1. Any dispositional order entered by the court pursuant to section thirty-two (32) of this Act 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 thirty-four (34) of this Act. No dispositional order made under section thirty-two (32), subsection two (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 shall automatically terminate when the child becomes eighteen years of age, except that in the case of an adult within the jurisdiction of the court under the provisions of section three (3), subsection one (1) of this Act, the dispositional order shall automatically

terminate one year after the last date upon which jurisdiction could attach.

3. 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.

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.

Sec. 34. NEW SECTION. TERMINATION, MODIFICATION, OR VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER. 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:

1. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraph a or b of this Act 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 thirty-two (32) of this Act. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

2. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraph d, of this Act, the court may 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. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

Notwithstanding the dispositional order, an agency, facility, or institution to whom custody has been granted under section thirty-two (32), subsection two (2), paragraphs d or e of this Act may terminate the order and discharge the child, modify the order by imposing less restrictive conditions, or vacate the order and substitute a less restrictive order without leave of court.

3. With respect to a dispositional order made pursuant

to section thirty-two (32), subsection two (2), paragraphs d or e of this Act, the court shall, in the absence of objection by the child, 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. If the child objects to the transfer the court may, after notice and hearing, either grant or deny the motion for transfer.

4. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraphs d and e of this Act, 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.

5. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraphs d and e of this Act, 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.

Notice requirements of this section shall be satisfied in the same manner as for adjudicatory hearings as provided in section seventeen (17) of this Act. At a hearing under this section all relevant and material evidence shall be admitted.

Sec. 35. NEW SECTION. 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. The adjudication and disposition of a child and evidence given in a proceeding under this division shall not be admissible as evidence against the child in any subsequent proceeding in any other court before or after reaching majority except in a sentencing proceeding after conviction of a felony.

DIVISION III  
CHILD IN NEED OF ASSISTANCE PROCEEDINGS  
PART 1

GENERAL PROVISIONS

Sec. 36. NEW SECTION. JURISDICTION.

1. The juvenile court shall have exclusive jurisdiction over proceedings under this Act 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.

Sec. 37. NEW SECTION. 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 Act 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.

Sec. 38. NEW SECTION. MODIFICATION OF CUSTODY DECREE.

During the pendency of an action under this division, a parent without custody pursuant to a decree of dissolution of marriage is estopped from applying for a modification of the custody decree in a court of this state.

PART 2

TEMPORARY REMOVAL OF A CHILD

Sec. 39. NEW SECTION. TEMPORARY REMOVAL OF A CHILD PURSUANT TO EX PARTE COURT ORDER.

1. The juvenile court may enter an ex parte order directing a peace officer to remove a child from his or her home before

or after the filing of a petition under this Act provided:

a. The parent, guardian, or legal custodian 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; and

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health; and

c. There is not enough time to file a petition and hold a hearing under section fifty-one (51) of this Act.

2. The order shall specify the facility to which the child is to be brought. Except for good cause shown or unless the child is sooner returned to the place where he or she was residing, a petition shall be filed under this Act within three days of the issuance of the order.

3. 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 Act 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 Act and hold a hearing as provided in section fifty-one (51) of this Act.

4. Any person who may file a petition under this Act 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.

Sec. 40. NEW SECTION. REMOVAL WITHOUT COURT ORDER.

1. A peace officer may remove a child from his or her home or a physician treating a child may keep the child in custody without a court order as required under section thirty-nine (39) of this Act and without the consent of a parent, guardian, or custodian provided that:

a. The child is in such circumstance or condition that his or her continued presence in the residence or in the care or custody of the parent, guardian, or custodian presents an imminent danger to the child's life or health; and

b. There is not enough time to apply for an order under

section thirty-nine (39) of this Act.

2. If a person authorized by this section removes or retains custody of a child, he or she 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. Promptly 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. 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 social 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. The court shall also authorize the department of social 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 child is not returned, the department of social services or the juvenile probation department shall forthwith cause a petition to be filed within three days after the removal.

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.

Sec. 41. NEW SECTION. 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, such services shall be provided in preference to removal of the child from the home. Such 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. Expenses incurred under this section shall be paid for

according to, and reimbursement from the parent, guardian or custodian may be sought under, the provisions of section seventy-five (75) of this Act.

Sec. 42. NEW SECTION. 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 social 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 forty-three (43) of this Act 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.

4. A person or agency shall not maintain any records with regard to a complaint filed under division three (III) of this Act which is dismissed without the filing of a petition.

PART 3

JUDICIAL PROCEEDINGS

Sec. 43. NEW SECTION. 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 Act 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 social services, probation officer, or county attorney.

3. The department, probation 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 sixteen (16) of this Act.

5. The petition shall contain the information specified in section sixteen (16) of this Act and a clear and concise summary of the facts which bring the child within the jurisdiction of the court under this division.

Sec. 44. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND SERVICES. After a petition has been filed the court shall issue and serve summons, notice, subpoenas and other process

in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section seventeen (17) of this Act.

Sec. 45. NEW SECTION. 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 for the child identified in the petition as a party to the proceedings, and the court shall appoint a guardian ad litem. The same person may serve both as child's counsel and as guardian ad litem.

Sec. 46. NEW SECTION. DUTIES OF COUNTY ATTORNEY. The county attorney shall represent the state in all proceedings arising from a petition filed under this division and shall present evidence in support of the petition.

Sec. 47. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS. 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 or custodian in accordance with and subject to the provisions of section eighteen (18) of this Act. A parent without custody may petition the court to be made a party to proceedings under this division.

Sec. 48. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS. The court shall exclude and admit persons to hearings and proceedings under this division in accordance with and subject to the provisions of section nineteen (19) of this Act.

Sec. 49. NEW SECTION. 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.

Sec. 50. NEW SECTION. 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 the same as those required in section six hundred twenty-four point nine (624.9) of the Code.

Sec. 51. NEW SECTION. HEARING CONCERNING TEMPORARY REMOVAL.

1. At any time after the petition is filed any person who may file a petition under section forty-three (43) of this Act 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. Where 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 thirty-nine (39) or forty (40) of this Act, the court shall hold a hearing 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 removal is necessary to avoid imminent risk to the child's life or health.

b. Release the child to his or her 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.

Sec. 52. NEW SECTION. 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 social services pursuant to chapter two hundred thirty-five A (235A) of the Code shall be admissible in evidence if the person making the report does not appear as a witness at the hearing, 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 physician 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 made by the department of social services, a juvenile probation officer, a peace officer or a hospital relating to a child in a proceeding under this division shall be admissible notwithstanding any objection to hearsay statements contained therein 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, 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.

Sec. 53. NEW SECTION. SOCIAL INVESTIGATION AND REPORT.

1. The court shall not make any disposition of the petition until a social report has been submitted to and considered by the court. The court may direct the probation officer, department of social services or any other agency licensed by the state to conduct a social investigation and to prepare a social report.

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 Act. Prior to the hearing at which the disposition is determined, the court shall permit counsel for the child

and counsel for the child's parent, guardian or custodian to inspect any social report to be considered by the court. The court may in its discretion order such 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.

Sec. 54. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

1. A physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section forty-three (43) of this Act and after a hearing to determine whether such an examination is necessary to determine the child's physical or mental condition.

The hearing required by this section may be held simultaneously with the adjudicatory hearing.

An examination ordered prior to the adjudication may be performed on an outpatient basis only. An examination ordered after adjudication shall be conducted on an outpatient basis whenever possible, but if necessary the court may commit the child to a suitable hospital, facility or institution for the purpose of examination for a period not to exceed thirty days. The civil commitment provisions of chapter two hundred twenty-nine (229) of the Code shall not apply to such commitments.

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.

Sec. 55. NEW SECTION. DISPOSITIONAL HEARING--FINDINGS.

1. Following the entry of an order pursuant to section fifty-two (52) of this Act, 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. 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 fifty-six (56) through fifty-eight (58) of this Act in order from least to most restrictive.

4. The court shall make and file written findings as to its reasons for the disposition.

Sec. 56. NEW SECTION. 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 social services, juvenile probation 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.

Sec. 57. NEW SECTION. 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 social services, juvenile probation 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 his or her physical or mental health. If the parent, guardian or custodian fails to provide the treatment or care, the court may order the department of social 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 eighteen 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.

Sec. 58. NEW SECTION. TRANSFER OF LEGAL CUSTODY OF JUVENILE AND PLACEMENT.

1. 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:

- a. A relative or other suitable person.
- 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. The department of social services.

2. After a dispositional hearing the court may enter an order transferring the guardianship of the court for the purposes of subsection six (6) of this section, to the commissioner of the department of social services for the purposes of placement in the Iowa Juvenile Home at Toledo.

3. Whenever possible the court should permit the child to remain at home with his or her parent, guardian or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:

a. The child cannot be protected from physical abuse without transfer of custody; or

b. 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.

4. The child shall not be placed in the Iowa training school for boys or the Iowa training school for girls.

5. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court may prescribe the type of placement 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 social services or other agency for placement, the department or agency shall submit to the court a specific plan for placement of the child and shall make every effort to return the child to his or her home as quickly as possible. If the court orders the transfer of custody to a 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.

6. The duration of any placement made after an order pursuant to this section shall be for an initial period of six months. At the expiration of that period, the court shall hold a hearing and review the placement in order to determine whether the child should be returned home, an extension of the placement should be made, or a termination of the parent-child relationship proceeding should be instituted. The placement should be terminated and the child returned to his or her home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section two (2), subsection five (5), of this

Act. If the placement is extended, the court should determine whether additional services are necessary to facilitate the return of the child to his or her home, and if the court determines such services are needed, the court shall order the provision of such services.

Sec. 59. NEW SECTION. 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 hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section seventeen (17) of this Act. The hearing shall be conducted in accordance with the provisions of section thirty (30) of this Act.

4. The court may terminate an order and release the child if the court finds that the purposes of the order have been accomplished and the child is no longer in need of supervision, care or treatment.

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 fifty-six (56) through fifty-eight (58) of this Act.

#### DIVISION IV

#### TERMINATION OF PARENT-CHILD

#### RELATIONSHIP PROCEEDING

Sec. 60. NEW SECTION. JURISDICTION. The juvenile court shall have exclusive jurisdiction over proceedings under this Act 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 Act if the court has made an order concerning the child pursuant to the provisions of division three (III) of this Act and the order is in force at the time a petition for termination is filed.

Sec. 61. NEW SECTION. VENUE.

1. Venue for termination proceedings under this Act 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 two (2) of this section.

2. If a court has made an order concerning the child pursuant to the provisions of this Act 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 thirty-seven (37) of this Act.

Sec. 62. NEW SECTION. PETITION.

1. A child's guardian or custodian, the department of social services, a juvenile probation officer or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child as provided in section forty-three (43) of this Act.

2. The department, probation 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 as provided in section forty-three (43) of this Act.

3. 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 sixty-five (65) of this Act 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. The signature and verification of the petitioner.

Sec. 63. NEW SECTION. NOTICE-SERVICE.

1. Persons listed in section sixty-two (62), subsection three (3), of this Act 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.
2. Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a minor 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 one (1) of this section.
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.

Sec. 64. NEW SECTION. 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.

Sec. 65. NEW SECTION. GROUNDS FOR TERMINATION. Except as provided in subsection six (6) of this section, the court may order the termination of both the parental rights with respect to a child and the relationship between the parents and the child on any of the following grounds:

1. The parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination.

2. The court finds that there is clear and convincing evidence that the child has been abandoned.

3. The court finds that:

a. One or both parents has physically or sexually abused the child; and

b. 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 as the result of the acts or omissions of the parent or 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; and

c. There is clear and convincing evidence that the parents had received or were offered services to correct the situation which led to the abuse.

4. The court finds that:

a. The child has been adjudicated a child in need of assistance pursuant to section fifty-two (52) of this Act; and

b. The custody of the child has been transferred from his or her parents for placement pursuant to section fifty-eight (58) of this Act and such placement has lasted for a period of at least six months, but less than twelve months; and

c. There is clear and convincing evidence that the child cannot be returned to the custody of his or her parents as

provided in section fifty-eight (58) of this Act; and

d. There is clear and convincing evidence that the parents have not maintained contact with the child during the previous six months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

5. The court finds that:

a. The child has been adjudicated a child in need of assistance pursuant to section fifty-two (52) of this Act; and

b. The custody of the child has been transferred from his or her parents for placement pursuant to section fifty-eight (58) of this Act for at least twelve months; and

c. There is clear and convincing evidence that the child cannot be returned to the custody of his or her parents as provided in section fifty-eight (58) of this Act.

6. Notwithstanding the provisions of subsections two (2) through five (5) of this section the court need not terminate the relationship between parents and child if the court finds:

a. A relative has legal custody of the child; or

b. The child is over ten years of age and objects to such termination; or

c. There is clear and convincing evidence that such termination would be detrimental to the child at the time due to the closeness of the parent-child relationship; or

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. That 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.

Sec. 66. NEW SECTION. 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 natural or adoptive parents, the court shall transfer the guardianship and custody of the child to one of the following:

- a. The department of social 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 relative or other suitable person.
4. 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 two (2), subsection five (5) of this Act, due to the acts or omissions of one or both of his or her 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 sections fifty-six (56), fifty-seven (57) or fifty-eight (58) of this Act.

Sec. 67. NEW SECTION. 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 sixty-six (66), subsection three (3), of this Act.

2. Any minor 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.

DIVISION V

FAMILY IN NEED OF ASSISTANCE PROCEEDINGS

Sec. 68. NEW SECTION. JURISDICTION. The juvenile court shall have exclusive jurisdiction over family in need of assistance proceedings.

Sec. 69. NEW SECTION. VENUE. Venue for family in need of assistance proceedings shall be determined in accordance with section thirty-seven (37) of this Act.

Sec. 70. NEW SECTION. MODIFICATION OF CUSTODY DECREE. During the pendency of an action under this division, a parent without custody pursuant to a decree of dissolution of marriage is estopped from applying for a modification of the custody decree in a court of this state.

Sec. 71. NEW SECTION. PETITION.

1. A family in need of assistance proceeding shall be initiated by the filing of a petition alleging that a child and his or her 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 or by the child. The judge, county attorney, or probation 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 his or her 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.

Sec. 72. NEW SECTION. 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.

Sec. 73. NEW SECTION. 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 his or her parent, guardian or custodian; and

b. The child or his or her 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 Iowa training school for boys or the Iowa training school for girls or other secure facility.

8. A child who is found in contempt of court because of violation of conditions imposed under section seventy-three (73) of this Act 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 fifty-six (56) through fifty-eight (58) of this Act.

#### DIVISION VI

##### APPEAL

#### Sec. 74. NEW SECTION. APPEAL.

1. Any interested party aggrieved by any order or decree of the juvenile court may appeal from the court for review of questions of law or fact.

2. The procedure for such appeals shall be governed by the same provisions applicable to appeals from the district court provided that when such order or decree affects the custody of a child the appeal shall be heard at the earliest practicable time.

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.

#### DIVISION VII

#### EXPENSES AND COSTS

Sec. 75. NEW SECTION. EXPENSES CHARGED TO COUNTY.

1. The following expenses upon certification of the judge or upon such other authorization as provided by law are a charge upon the county in which the proceedings are held to the extent provided in subsection four (4) of this section.

a. The fees and mileage of witnesses and the expenses and mileage of officers serving notices and subpoenas.

b. The expenses of transporting a child to a place designated by a child placing agency for the care of a child if the court transfers legal custody to a child placing agency.

c. The expense of transporting a child to or from a place designated by the court.

d. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

e. The expense of treatment or care ordered by the court under an authority of subsection two (2) of this section.

2. Whenever legal custody of a minor is transferred by the court or whenever the minor is placed by the court with someone other than the parents or whenever homemaker-home health aide service is provided under section forty-one (41) of this Act, or whenever a minor is given physical or mental examinations or treatment under order of the court and no provision is otherwise made by law for payment for the care, examination, or treatment of the minor, the costs shall be charged upon the funds of the county in which the proceedings are held upon certification of the judge to the board of supervisors. Except where the parent-child relationship is terminated, the court may inquire into the ability of the parents to support the minor and after giving the parents a reasonable opportunity to be heard may order the parents to pay in the manner and to whom the court may direct, such

sums as will cover in whole or in part the cost of care, examination, or treatment of the minor. An order entered under this section shall not obligate a parent paying child support under a custody decree, except that any part of such a monthly support payment may be used to satisfy the obligations imposed by an order entered under this section. If the parents fail to pay the sum without good reason, the parents may be proceeded against for contempt or the court may inform the county attorney who shall proceed against the parents to collect the unpaid sums or both. Any such sums ordered by the court shall be a judgment against each of the parents and a lien as provided in section six hundred twenty-four point twenty-three (624.23) of the Code. If all or any part of the sums that the parents are ordered to pay is subsequently paid by the county, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of such payments.

3. The county charged with the cost and expenses under subsection one (1) or two (2) of this section may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under authority of this section shall be settled in accordance with sections two hundred fifty-two point twenty-two (252.22) and two hundred fifty-two point twenty-three (252.23) of the Code.

4. Costs incurred under this section shall be paid as follows:

a. The costs incurred under the provisions of section two hundred thirty-two point fifty-two (232.52) of the Code by each county for the fiscal years beginning July 1, 1974, 1975, and 1976 shall be averaged. The average cost for each county shall be that county's base cost for the first fiscal year after the effective date of this Act.

b. Each county shall be required to pay for the first fiscal year after the effective date of this Act an amount equal to its base cost plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the bureau of labor statistics for the current fiscal year times the base cost.

c. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph b of this subsection shall become that 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 b of this subsection.

d. Costs incurred under provisions of this section which are not paid by the county under the provisions of paragraphs a, b and c of this subsection shall be paid by the state.

Sec. 76. NEW SECTION. MAINTENANCE AND COST OF JUVENILE HOMES.

1. County boards of supervisors may either singly or in conjunction with one or more other counties provide and maintain juvenile detention and juvenile shelter care homes.

2. For the purpose of providing and maintaining such a county or multi-county home, the board of supervisors of any county may issue bonds and authorize the expenditure of such amounts as are consistent with the provisions of chapter three hundred forty-five (345) of the Code. The board of supervisors of any county is authorized to levy a tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for the purpose of maintaining such a home. In counties of over one hundred fifty thousand population, the board of supervisors is authorized to levy a tax not to exceed twenty and one-fourth cents per thousand dollars of assessed value for the maintenance of such a home. Expenses for providing and maintaining such a home shall be paid by the county or counties participating in a manner to be determined by board or boards of supervisors of participating counties.

3. Upon request of the board of supervisors, the area education agency shall provide suitable curriculum, teaching staff, books, supplies, and other necessary materials and equipment for the instruction of children of school age who are detained in such a home.

4. Approved county or multi-county juvenile homes shall be entitled to receive financial aid from the state in the amount and in such manner as determined by the commissioner. Aid paid by the state shall not exceed fifty percent of the total cost of the establishment, improvements, operation, and maintenance of such a home.

5. The commissioner 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 Act. The commissioner shall, upon request, give guidance

and consultation in the establishment and administration of such homes and programs for such homes.

6. The commissioner shall approve annually all such homes established and maintained under the provisions of this Act. No such home shall be approved unless it complies with minimal rules and standards adopted by the commissioner.

#### DIVISION VIII

#### RECORDS

Sec. 77. NEW SECTION. 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 shall be public records, subject to sealing under section eighty (80) of this Act.

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 probation officers.

b. The child and his or her counsel.

c. The child's parent, guardian or custodian, and guardian ad litem.

d. The county attorney and his or her 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. An appellate court in connection with an appeal pursuant to section seventy-four (74) of this Act.

4. 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.

5. Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order

or unless otherwise provided in this Act.

Sec. 78. NEW SECTION. FINGERPRINTS--PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted by a criminal justice agency after he or she is taken into custody and fingerprint files of children shall not be inspected unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for the commission of a public offense.

2. Fingerprints of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency investigating the commission of a public offense constituting a felony.

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 age of the child or 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 and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

4. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints of a child shall not be placed in any data storage system established and maintained by the department of public safety pursuant to chapter six hundred ninety-two (692) of the Code Supplement, or in any federal depository for fingerprints.

5. Fingerprint 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.

6. Fingerprints of a child shall be removed from the file and destroyed if:

- a. A petition alleging the child to be delinquent is not filed; or
- b. After a petition is filed, the petition is dismissed or the child is found by the court not to be delinquent; or
- c. Upon petition by the child when he or she reaches

twenty-one years of age and he or she has not been adjudicated a delinquent nor convicted of committing an aggravated misdemeanor or a felony after reaching sixteen years of age.

7. A child shall not be photographed by a criminal justice agency after he or she is taken into custody without the consent of the court unless the court waives jurisdiction over the child so that he or she may be prosecuted as an adult for the commission of a public offense.

Sec. 79. NEW SECTION. LAW ENFORCEMENT RECORDS.

1. The taking of a child into custody under the provisions of section nine (9) of this Act shall not be considered an arrest.

2. Records and files of a criminal justice agency concerning a child other than fingerprint and photograph records and files shall not be open to inspection and their contents shall not be disclosed except as provided in this section and section eighty (80) of this Act 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. Such records may be inspected and their contents may be disclosed without a court order to the following:

a. Peace officers of this state and other jurisdictions when necessary for the discharge of their official duties.

b. The judge and professional staff, including juvenile probation officers, of a juvenile court or of a juvenile or family court in another jurisdiction having the child currently before it in any proceeding.

c. The child, his or her counsel, parent, guardian, custodian and guardian ad litem.

d. The designated representative of any agency, association, facility or institution which has custody of the child, or is responsible for the care, treatment or supervision of the child pursuant to a court order.

e. A court in which the child has been convicted of a public offense in connection with a presentence report or dispositional proceedings.

4. Pursuant to court order such records may be inspected by and their contents may be disclosed to the following:

a. A person conducting bona fide research for research purposes under such conditions as 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.

Sec. 80. NEW SECTION. SEALING OF RECORDS.

1. 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 records in the case including those specified in sections seventy-seven (77) and seventy-nine (79) of this Act sealed if the court finds that:

a. Two years have elapsed since the final discharge of such person or since the last official action in his or her case if there was no adjudication and disposition; and

b. Such 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.

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 of 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 six (6) of this section.

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.

Sec. 81. NEW SECTION. 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 seventy-seven (77) through eighty (80) of this Act except as provided by those sections shall be guilty of a serious misdemeanor.

Sec. 82. Section one hundred six point thirteen (106.13), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

~~Chapter-232~~ This Act shall have no application in the prosecution of offenses committed in violation of this chapter or rules and regulations which are adopted under the authority of this chapter which are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

Sec. 83. Section two hundred thirty-one point three (231.3), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The judge of the juvenile court may appoint a referee in juvenile court proceedings. The referee shall be qualified for his or her duties by training which includes being a licensed attorney and by experience and shall hold office at the pleasure of the judge. The compensation of the referee shall be fixed by the judge. The judge may direct that any case or class of cases arising under ~~chapter-232~~ this Act or chapter 600A shall be heard in the first instance by the referee in the manner provided for the hearing of cases by the court.

Sec. 84. Section two hundred thirty-three point one (233.1), subsection one (1), Code 1977, is amended to read as follows:

1. To encourage any child under eighteen years of age to commit any act of delinquency defined in ~~chapter-232-of this-title~~ this Act.

Sec. 85. Section two hundred thirty-four point thirty-six (234.36), Code 1977, is amended to read as follows:

234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS. Each county shall pay from the county mental health and institutions fund as provided by section 444.12, subsection 2, the cost of foster care for a child placed by a court as provided in ~~section-232-33-subsection-3-or-4-or-section-232-34-subsection-3-or-4~~ section thirty (30) or section fifty-five (55) of this Act. However, in any fiscal year for which the general assembly appropriates state funds to pay for foster care for children placed by courts under the ~~statutes~~ statute

or sections of this Act cited in this section, the county shall become responsible for these costs only when the funds so appropriated to the department for that fiscal year have been exhausted. The rate of payment by the county or the state, as the case may be, under this section shall be that fixed by the department of social services pursuant to section 234.38.

Sec. 86. Section two hundred thirty-eight point thirty-two (238.32), subsection one (1), Code 1977, is amended to read as follows:

1. Receive children in need of assistance, or delinquent children who are under eighteen years of age, under commitment from the juvenile court, and control and dispose of them subject to the provisions of ~~chapter-232~~ this Act and chapter 600A.

Sec. 87. Section two hundred thirty-eight point forty-one (238.41), Code 1977, is amended to read as follows:

238.41 STATUTES NOT AFFECTED. Nothing contained in sections 238.33 through 238.40 shall be deemed to affect or modify the provisions of ~~chapters-232-and~~ this Act or of chapter 600.

Sec. 88. Section two hundred forty-two point five (242.5), Code 1977, is amended to read as follows:

242.5 PROCEDURE TO COMMIT. The procedure for the commitment of children to the state training school, except as otherwise provided, shall be the same as provided in ~~chapter 232~~ this Act.

Sec. 89. Section two hundred forty-four point four (244.4), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

244.4 PROCEDURE. The procedure for commitment to said homes shall be the same as provided by this Act.

Sec. 90. Section three hundred twenty-one point four hundred eighty-two (321.482), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

It is a misdemeanor for any person to do any act forbidden or to fail to perform any act required by any of the provisions of this chapter unless any such violation is by this chapter or other law of this state declared to be a felony. ~~Chapter 232~~ This Act shall have no application in the prosecution of offenses committed in violation of this chapter which are punishable by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days.

Sec. 91. Section three hundred twenty-one G point fourteen

(321G.14), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

~~Chapter-232~~ This Act shall have no application in the prosecution of offenses which are committed in violation of this chapter, and which are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

Sec. 92. Section three hundred thirty-six B point two (336B.2), Code 1977 Supplement, is amended to read as follows:

336B.2 FINANCIAL STATEMENT. Before an attorney is appointed under the provisions of sections 68.8, 145.17, 145.19, 222.22, ~~232-28~~ this Act, or rule 8, rules of criminal procedure, or to represent any person charged with a crime in this state, the court shall require the client, or his or her parent, guardian, or custodian to complete under oath a detailed financial statement.

Sec. 93. Section three hundred fifty-six point three (356.3), Code 1977, is amended to read as follows:

356.3 MINORS SEPARATELY CONFINED. Any sheriff, city marshal, or chief of police, having in his or her care or custody any prisoner under the age of eighteen years, shall keep such prisoner separate and apart, and prevent communication by such prisoner with prisoners above that age, while such prisoners are not under the personal supervision of such officer, if suitable buildings or jails are provided for that purpose, unless such prisoner is likely to or does exercise an immoral influence over other minors with whom he or she may be imprisoned.

A person under the age of eighteen years prosecuted under this Act and not waived to criminal court shall be confined in a jail only under the conditions provided in this Act.

PARAGRAPH DIVIDED. Any officer having charge of prisoners who without just cause or excuse neglects or refuses to perform the duties imposed on him or her by this section may be suspended or removed from office therefor.

Sec. 94. Section six hundred A point five (600A.5), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. The following persons may petition a juvenile court for termination of parental rights under this chapter if the child of the parent-child relationship is born or expected to be born within one hundred eighty days of the date of the petition filing:

a. A parent or prospective parent of the parent-child

relationship.

b. A custodian or guardian of the child.

~~c. Any other person who has knowledge of circumstances indicating that the parent-child relationship should be terminated.~~

2. A petition for termination of parental rights shall be filed with the juvenile court in which the guardian or custodian of the child resides or the child or the pregnant woman is domiciled. However, If a juvenile court has made an order pertaining to a minor child under section two-hundred thirty-two-point-thirty-three (232.33) of the Code division three (III) of this Act and that order is still in force, the petition termination proceedings shall be filed with that juvenile court conducted pursuant to the provisions of division four (IV) of this Act.

Sec. 95. Section six hundred A point six (600A.6), subsection one (1), Code 1977, is amended to read as follows:

1. A termination of parental rights under this chapter shall, unless provided otherwise in this section, be effectuated only after notice has been served on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court. A "necessary party" includes any person whose name, residence, and domicile is required to be included on the petition under section six hundred A point five (600A.5), subsection three (3), paragraphs "a" and "b". However, a "necessary party" does not include a natural parent who has been adjudicated to have raped the other natural parent thereby producing the birth of the child designated in section six hundred A point five (600A.5), subsection three (3), paragraph "a".

Sec. 96. Section six hundred A point seven (600A.7), subsection one (1), Code 1977, is amended to read as follows:

1. The hearing on termination of parental rights shall be conducted in accordance ~~to~~ with the provisions of sections ~~232-27, 232-28, 232-30, and 232-32~~ forty-seven (47) through fifty-two (52) of this Act and otherwise in accordance with the rules of civil procedure. Such hearing shall be held not less than one week after the child is born.

Sec. 97. Section six hundred A point eight (600A.8), Code 1977, is amended by striking subsections four (4), five (5), and six (6).

Sec. 98. Section six hundred A point nine (600A.9), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. Subsequent to the hearing on termination of parental rights under this chapter, the juvenile court shall make a finding of facts and shall order that either:

a. The petition be dismissed; or,

~~b. The petition shall not be granted at that time, but that conditions indicating that the child is in need of assistance exist, and an order to that effect is issued pursuant to section two hundred thirty-two point thirty-three (232.33) of the Code; or,~~

e b. The petition be granted. The juvenile court shall appoint a guardian and a custodian or a guardian only. An order issued under this paragraph shall include the finding of facts. This finding shall enumerate the factual basis which indicates that the parent-child relationship should be terminated and shall specify how this finding applies to the grounds upon which the termination is ordered.

2. If an order is issued under paragraph e b of subsection one (1) of this section, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent to request vacation of the termination order if:

a. The child is not on placement for adoption or a petition for adoption of the child is not on file; and,

b. The guardian consents in writing to the vacation. The juvenile court shall grant the vacation request if it is in the best interest of the child.

Sec. 99. Chapter two hundred thirty-two (232), Code 1977, is repealed.

Sec. 100. The supreme court is authorized to propose rules of juvenile procedure for consideration by the first session of the sixty-eighth general assembly. This section shall be effective July 1, 1978. Any rules promulgated under the authority of this section shall become effective July 1, 1979. Thereafter, the rules of juvenile procedure may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684).

Sec. 101. The provisions of this Act shall become effective July 1, 1979.

Sec. 102. The Code editor shall place the interstate compact, sections two hundred thirty-one point fourteen (231.14) and two hundred thirty-one point fifteen (231.15) of the Code, in this Act as division seven (VII), following division six (VI), appeal. The Code editor shall place the

child abuse mandatory reporting provisions, sections two hundred thirty-five A point three (235A.3) through two hundred thirty-five A point eleven (235A.11) of the Code in this Act as part two (2) of division three (III).

Approved July 3, 1978

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