

FILED MAR 23 1979

SENATE FILE 462

By COMMITTEE ON JUDICIARY
approved 3/23 (p 740)

Passed Senate, Date 3-30-79 (p 1046) Passed House, Date _____

Vote: Ayes 42 Nays 0 Vote: Ayes _____ Nays _____

Approved June 5, 1979

A BILL FOR

1 An Act relating to juvenile justice provisions of the Code.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section two hundred thirty-two point two
2 (232.2), subsection five (5), paragraph g, Code 1979, is
3 amended to read as follows:

4 g. Whose parent, guardian, or custodian fails to exercise
5 a minimal degree of care in supplying the child with adequate
6 food, clothing or shelter ~~or~~ and refuses other means made
7 available to provide such essentials.

8 Sec. 2. Section two hundred thirty-two point eight (232.8),
9 subsection one (1), unnumbered paragraph two (2), Code 1979,
10 is amended to read as follows:

11 Violations by a child of provisions of chapters 106, 106A,
12 109, one hundred nine A (109A) of the Code, 110, 110A, 110B,
13 111, 321, or 321G which would be simple misdemeanors if
14 committed by an adult, violations of county or municipal
15 curfew or traffic ordinances, and violations by a child of
16 the provisions of ~~section 123-47~~ chapter one hundred twenty-
17 three (123) of the Code, are excluded from the jurisdiction
18 of the juvenile court and shall be prosecuted as simple
19 misdemeanors as provided by law. The court may advise
20 appropriate juvenile authorities and may refer violations
21 of chapter 123 to the juvenile court when there is reason
22 to believe that the child regularly abuses alcohol and may
23 be in need of treatment.

24 Sec. 3. Section two hundred thirty-two point eleven
25 (232.11), subsection three (3), Code 1979, is amended by
26 adding the following new paragraph:

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

30 Sec. 4. Section two hundred thirty-two point twenty-two
31 (232.22), subsection one (1), paragraph c, Code 1979, is
32 amended to read as follows:

33 c. There is probable cause to believe that the child has
34 violated conditions of release imposed under section 232-54
35 two hundred thirty-two point forty-four (232.44), subsection

1 five (5), paragraph b of the Code and there is a substantial
2 probability that the child will run away or otherwise be
3 unavailable for subsequent court appearance; or

4 Sec. 5. Section two hundred thirty-two point forty-one
5 (232.41), Code 1979, is amended to read as follows:

6 232.41 REPORTER REQUIRED. Stenographic notes or mechanical
7 or electronic recordings shall be taken of all court hearings
8 held pursuant to this division unless waived by the parties.

9 The child shall not be competent to waive the reporting
10 requirement, but waiver may be made for the child by the
11 child's counsel or guardian ad litem. Matters which must
12 be reported under the provisions of this section shall be
13 ~~the same as these~~ reported in the same manner as required
14 in section 624.9.

15 Sec. 6. Section two hundred thirty-two point forty-two
16 (232.42), Code 1979, is amended to read as follows:

17 232.42 CONTINUANCES.

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

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

26 Sec. 7. Section two hundred thirty-two point forty-seven
27 (232.47), Code 1979, is amended by adding the following new
28 subsection:

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

33 Sec. 8. Section two hundred thirty-two point fifty-four
34 (232.54), subsection one (1), Code 1979, is amended to read
35 as follows:

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

11 Sec. 9. Section two hundred thirty-two point fifty-four
12 (232.54), subsection two (2), unnumbered paragraph one (1),
13 Code 1979, is amended to read as follows:

14 2. With respect to a dispositional order made pursuant
15 to section 232.52, subsection 2, ~~paragraph~~ paragraphs "d"
16 and "e", the court may grant a motion of the person to whom
17 custody has been transferred for termination of the order
18 and discharge of the child, for modification of the order
19 by imposition of less restrictive conditions, or for vacation
20 of the order and substitution of a less restrictive order.
21 Notice shall be afforded all parties, and a hearing shall
22 be held at the request of any party.

23 Sec. 10. Section two hundred thirty-two point fifty-four
24 (232.54), subsection two (2), unnumbered paragraph two (2),
25 Code 1979, is amended by striking the paragraph.

26 Sec. 11. Section two hundred thirty-two point fifty-four
27 (232.54), subsections three (3) and four (4), Code 1979, are
28 amended to read as follows:

29 3. With respect to a dispositional order made pursuant
30 to section 232.52, subsection 2, paragraphs "d", ~~or~~ "e" or
31 "f", the court shall, in the absence of objection by the
32 child, grant a motion of a person or agency to whom custody
33 has been transferred for modification of the order by transfer
34 to an equally restrictive placement. If the child objects
35 to the transfer the court may, after notice and hearing,

1 either grant or deny the motion for transfer.

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

12 Sec. 12. Section two hundred thirty-two point eighty-
13 one (232.81), subsection four (4), Code 1979, is amended to
14 read as follows:

15 4. A person or agency shall not maintain any records with
16 regard to a complaint filed under ~~this~~ division III of this
17 chapter which is dismissed without the filing of a petition.
18 This subsection does not apply to records maintained pursuant
19 to chapter two hundred thirty-five A (235A) of the Code.

20 Sec. 13. Section two hundred thirty-two point eighty-
21 nine (232.89), subsection two (2), Code 1979, is amended by
22 striking the subsection and inserting in lieu thereof the
23 following:

24 2. Upon the filing of a petition, the court shall appoint
25 counsel and a guardian ad litem for the child identified in
26 the petition as a party to the proceedings. Counsel shall
27 be appointed as follows:

28 a. If the child is represented by counsel and the court
29 determines there is a conflict of interest between the child
30 and his or her parent, guardian or custodian and that the
31 retained counsel could not properly represent the child as
32 a result of the conflict, the court shall appoint other counsel
33 to represent the child, who shall be compensated pursuant
34 to the provisions of section fourteen (14) of this Act.

35 b. If the child is not represented by counsel, the court

1 shall either order the parent, guardian or custodian to retain
2 counsel for the child or shall appoint counsel for the child,
3 who shall be compensated pursuant to the provisions of section
4 fourteen (14) of this Act.

5 Sec. 14. Section two hundred thirty-two point eighty-
6 nine (232.89), Code 1979, is amended by adding the follow-
7 ing new subsection:

8 NEW SUBSECTION. The court shall determine, after giving
9 the parent, guardian or custodian an opportunity to be heard,
10 whether such person has the ability to pay in whole or in
11 part for counsel appointed for the child. If the court
12 determines that such person possesses sufficient financial
13 ability, the court shall then consult with the department
14 of social services, the juvenile probation office or other
15 authorized agency or individual regarding the likelihood of
16 impairment of the relationship between the child and his or
17 her parent, guardian or custodian as a result of ordering
18 the parent, guardian or custodian to pay for the child's
19 counsel. If impairment is deemed unlikely, the court shall
20 order that person to pay such sums as the court finds
21 appropriate in the manner and to whom the court directs.
22 If the person so ordered fails to comply with the order without
23 good reason, the court shall enter judgment against him or
24 her. If impairment is deemed likely or if the court determines
25 that the parent, guardian or custodian cannot pay any part
26 of the expenses of counsel appointed to represent the child,
27 counsel shall be reimbursed pursuant to section two hundred
28 thirty-two point one hundred forty-one (232.141), subsection
29 one (1), paragraph d of the Code.

30 Sec. 15. Section two hundred thirty-two point eighty-nine
31 (232.89), Code 1979, is amended by adding the following new
32 subsection:

33 NEW SUBSECTION. The same person may serve both as the
34 child's counsel and as guardian ad litem.

35 Sec. 16. Section two hundred thirty-two point ninety-

1 four (232.94), Code 1979, is amended to read as follows:

2 232.94 REPORTER REQUIRED. Stenographic notes or electronic
3 or mechanical recordings shall be taken of all court hearings
4 held pursuant to this division unless waived by the parties.

5 The child shall not be competent to waive the reporting
6 requirement, but waiver may be made for the child by the
7 child's counsel or guardian ad litem. Matters which must
8 be reported under the provisions of this section shall be

9 ~~the same as these~~ reported in the same manner as required
10 in section 624.9.

11 Sec. 17. Section two hundred thirty-two point ninety-six
12 (232.96), Code 1979, is amended by adding the following new
13 subsection:

14 NEW SUBSECTION. If the court enters an order adjudicating
15 the child to be a child in need of assistance, the court,
16 if it has not previously done so, may issue an order
17 authorizing temporary removal of the child from his or her
18 home as set forth in section two hundred thirty-two point
19 ninety-five (232.95), subsection two (2), paragraph a of the
20 Code, pending a final order of disposition.

21 Sec. 18. Section two hundred thirty-two point one hundred
22 eleven (232.111), subsections one (1) and two (2), Code 1979,
23 are amended to read as follows:

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 232-97.~~

29 2. The department, probation officer, county attorney
30 or 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 232-87.~~

34 Sec. 19. Section two hundred thirty-two point one hundred
35 twelve (232.112), subsection two (2), Code 1979, is amended

1 to read as follows:

2 2. Prior to the service of notice on the necessary parties,
3 the juvenile court shall appoint a guardian ad litem for a
4 ~~minor~~ child if the child does not have a guardian or guardian
5 ad litem or if the interests of the guardian or guardian ad
6 litem conflict with the interests of the child. Such guardian
7 ad litem shall be a necessary party under subsection 1.

8 Sec. 20. Chapter two hundred thirty-two (232), Code 1979,
9 is amended by adding the following new sections after section
10 two hundred thirty-two point one hundred thirteen (232.113)
11 and renumbering as necessary remaining sections of division
12 four (IV):

13 NEW SECTION. DUTIES OF COUNTY ATTORNEY. Upon the filing
14 of a petition the county attorney shall represent the state
15 in all adversary proceedings arising under this division and
16 shall present evidence in support of the petition.

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

26 Sec. 21. Section two hundred thirty-two point one hundred
27 forty-one (232.141), subsection four (4), paragraph a, Code
28 1979, is amended to read as follows:

29 a. The costs incurred under the provisions of section
30 232.52 of prior Codes by each county for the fiscal years
31 beginning July 1, ~~1974~~, 1975, ~~and 1976~~ and 1977 shall be
32 averaged. The average cost for each county shall be that
33 county's base cost for the first fiscal year after July 1,
34 1979.

35 Sec. 22. Section two hundred thirty-two point one hundred

1 forty-seven (232.147), subsection two (2), Code 1979, is
2 amended to read as follows:

3 2. Official juvenile court records in cases alleging
4 delinquency shall be public records, subject to sealing under
5 section 232.150. If the court has excluded the public from
6 a hearing under division two (II) of this chapter, the
7 transcript of the proceedings shall not be deemed a public
8 record and inspection and disclosure of the contents of the
9 transcript shall not be permitted except pursuant to court
10 order or unless otherwise provided in this chapter.

11 Sec. 23. Chapter two hundred thirty-two (232), Code 1979,
12 is amended by adding the following new section:

13 NEW SECTION. APPLICABILITY OF THIS CHAPTER PRIOR TO ITS
14 EFFECTIVE DATE.

15 1. Except as provided in subsections two (2) and three
16 (3) of this section, this chapter does not apply to juvenile
17 court cases brought prior to July 1, 1979 or to acts committed
18 prior to July 1, 1979 which would otherwise bring a child
19 or his or her parent, guardian or custodian within the
20 jurisdiction of the juvenile court pursuant to this chapter.

21 2. In a case pending on or commenced after July 1, 1979,
22 involving acts committed prior to July 1, 1979:

23 a. Upon the request of any party and the approval of the
24 court:

25 (1) Procedural provisions of this chapter shall apply
26 insofar as they are justly applicable.

27 (2) The court may order a disposition of the case pursuant
28 to the provisions of this chapter.

29 3. Provisions of this chapter governing the termination,
30 modification or vacation of a dispositional order shall apply
31 to persons to whom a dispositional order has been issued for
32 acts committed prior to July 1, 1979, except that the maximum
33 length of the order and the severity of the disposition shall
34 not be increased. The provisions of this chapter shall not
35 affect the substantive or procedural validity of a judgment

1 entered before July 1, 1979, regardless of the fact that
2 appeal time has not run or that an appeal is pending.

3 Sec. 24. Section two hundred thirty-three point five
4 (233.5), Code 1979, is amended to read as follows:

5 233.5 INTERPRETATIVE CLAUSE. For the purposes of this
6 Act chapter the word "dependency" shall mean all the conditions
7 as enumerated in section 232.2, subsection ~~13~~ five (5) of
8 the Code.

9 Sec. 25. Section two hundred thirty-two point thirteen
10 (232.13), Code 1979, is repealed.

11 EXPLANATION

12 This bill's primary purpose is to correct technical errors
13 or unclear provisions in the juvenile justice bill as passed
14 by the second session of the Sixty-seventh General Assembly
15 and codified in the 1979 Code. In doing so, some changes
16 are made which appear more substantive in nature than mere
17 technical amendments.

18 Section 2, by replacing section 123.47 with chapter 123
19 makes the paragraph consistent with chapter 123, which provides
20 that persons under legal age who violate any provisions of
21 the chapter are guilty of simple misdemeanors and consistent
22 with itself as it states that violations by juveniles of
23 chapter 123 (not section 123.47) may be referred to juvenile
24 authorities.

25 Section 3 allows the court to appoint counsel for the child
26 before a determination is made as to whether the parent,
27 guardian or custodian is able to pay for the counsel. Sections
28 6 and 25 combine both provisions as to continuances into one
29 section. Sections 7 and 17 make it clear what happens to
30 a child between adjudication and disposition. Sections 8,
31 9 and 11 insert references to dispositions in those provisions
32 covering how dispositions may be modified, terminated or
33 vacated. In the present law no provision was made for
34 dispositions under paragraphs "c" and "f". The reference
35 to paragraph "e" although included in the second paragraph

1 of subsection 2 was omitted in the first paragraph.

2 Section 10 eliminates a provision which raises a serious
3 constitutional question concerning the authority of an
4 executive agency to overrule a judicial order.

5 Section 12 makes it clear that the section does not affect
6 records kept pursuant to the child abuse law. Sections 13
7 and 14 add a requirement that a parent, guardian or custodian
8 pay in full or in part for counsel appointed for a child in
9 a child in need of assistance proceeding if financially able
10 and if the requirement would not impair the relationship with
11 the child.

12 Section 18 removes a redundant and perhaps confusing
13 reference. Section 20 makes clear who is responsible for
14 representing the state in a termination of parental rights
15 case and inserts a reporting provision similar to those in
16 delinquency and child in need of assistance proceedings.

17 Section 21 updates the years used to figure a county's
18 base cost to bring them in line with when the bill was finally
19 enacted. Section 22 excludes transcripts of a delinquency
20 hearing from the realm of public records if the court excluded
21 the public from the hearings.

22 The juvenile justice law (chapter 232) will be effective
23 July 1, 1979. Section 23 provides guidelines as to how the
24 new law may be applied to cases or acts which arise prior
25 to that date. This bill will also take effect on the same
26 date.

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LSB 1732S 68

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S-3330

1 Amend Senate File 462 as follows:

2 1. Page 1, lines 16 and 17, by striking the words
3 and figures "~~section-123.47~~ chapter one hundred twenty-
4 three (123) of the Code" and inserting in lieu thereof
5 the word and figure "section 123.47".
6 2. Page 1, line 21, by striking the word and
7 figure "chapter 123" and inserting in lieu thereof
8 the words and figures "~~chapter-123~~ section one hundred
9 twenty-three point forty-seven (123.47) of the Code".
10 3. Page 1, line 34, by striking the figure "232.54"
11 and inserting in lieu thereof the figure and word
12 "232.54 and".

13 4. Page 2, by inserting after line 3 the follow-
14 ing new section:

15 "Sec. ____ . Section two hundred thirty-two point
16 twenty-eight (232.28), subsections one (1) and two
17 (2), Code 1979, are amended to read as follows:

18 1. Any person having knowledge of the facts may
19 file a complaint with the court or its designee
20 alleging that a child has committed a delinquent act.

21 2. The court or its designee shall refer the
22 complaint to an intake officer who shall conduct a
23 preliminary inquiry to determine what action should
24 be taken."

25 5. Page 2, by inserting after line 32 the follow-
26 ing new sections:

27 "Sec. ____ . Section two hundred thirty-two point
28 fifty-two (232.52), subsection one (1), Code 1979,
29 is amended to read as follows:

30 1. Pursuant to a hearing as provided in section
31 232.50, the court shall enter the least restrictive
32 dispositional order appropriate in view of the
33 seriousness of the delinquent act, the child's
34 culpability as indicated by the circumstances of the
35 particular case, the age of the child and the child's
36 prior record. The order shall specify the duration
37 and the nature of the disposition, ~~including the type~~
38 ~~of residence or confinement ordered~~ and the individual,
39 agency, department or facility in whom custody is
40 vested.

41 Sec. ____ . Section two hundred thirty-two point
42 fifty-two (232.52), subsection two (2), unnumbered
43 paragraph one (1), Code 1979, is amended to read as
44 follows:

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

47 Sec. ____ . Section two hundred thirty-two point
48 fifty-two (232.52), subsection two (2), paragraph
49 d, subparagraph three (3), Code 1979, is amended to
50 read as follows:

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- 1 (3) The department of social services for purposes
2 of foster care and ~~prescribing the type of placement.~~
3 The department shall designate the specific placement
4 and program which will serve the best interests of
5 the child and the court shall specify the means by
6 which the placement shall be monitored by the court."
7 6. Page 3, line 16, by striking the word "may"
8 and inserting in lieu thereof the words "may shall".
9 7. Page 3, line 20, by inserting after the words
10 "restrictive order" the words "unless there is clear
11 and convincing evidence that there has not been a
12 change of circumstance sufficient to grant the motion".
13 8. Page 3, line 22, by inserting after the word
14 "party" the words "or upon the court's own motion".
15 9. Page 3, lines 31 and 32, by striking the words
16 ", in the absence of objection by the child," and
17 inserting in lieu thereof the words "in the absence
18 of objection by the child,".
19 10. Page 3, by striking lines 34 through page
20 4, line 1 and inserting in lieu thereof the words
21 "to an equally restrictive placement, unless there
22 is clear and convincing evidence that there has not
23 been a change of circumstance sufficient to grant
24 the motion. If the child objects to the transfer
25 the court may, after notice and hearing, either grant
26 or deny the motion for transfer. Notice shall be
27 afforded all parties, and a hearing shall be held
28 at the request of any party or upon the court's own
29 motion."
30 11. Page 4, by inserting after line 11 the follow-
31 ing new section:
32 "Sec. _____. Section two hundred thirty-two point
33 sixty-eight (232.68), subsection two (2), paragraph
34 b, Code 1979, is amended to read as follows:
35 b. The commission of any sexual abuse offense
36 with or to a child as defined by pursuant to chapter
37 709 or section seven hundred twenty-six point two
38 (726.2) of the Code, as a result of the acts or
39 omissions of the person responsible for the care of
40 the child."
41 12. Page 4, by inserting after line 11 the follow-
42 ing new section:
43 "Sec. _____. Section two hundred thirty-two point
44 seventy-nine (232.79), subsection five (5), Code 1979,
45 is amended to read as follows:
46 5. When there has been an emergency removal or
47 keeping of a child without a court order, a physical
48 examination of the child by a licensed medical
49 practitioner shall be performed within twenty-four
50 hours of such removal, unless the child is returned

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PAGE 3

1 to his or her home within twenty-four hours of the
2 removal."

3 13. Page 6, by inserting after line 20 the follow-
4 ing new section:

5 "Sec. _____. Section two hundred thirty-two point
6 one hundred two (232.102), subsection five (5), Code
7 1979, is amended to read as follows:

8 5. In any order transferring custody to the
9 department or an agency, or in orders pursuant to
10 a custody order, the court ~~may prescribe the type~~
11 ~~of placement shall specify the nature and category~~
12 ~~of disposition which will serve the best interests~~
13 of the child, and shall prescribe the means by which
14 the placement shall be monitored by the court. If
15 the court orders the transfer of the custody of the
16 child to the department of social services or other
17 agency for placement, the department or agency shall
18 submit to the court a specific plan for placement
19 of the child and shall make every effort to return
20 the child to his or her home as quickly as possible.
21 If the court orders the transfer of custody to a
22 relative or other suitable person, the court may
23 direct the department or other agency to provide
24 services to the child's parent, guardian or custodian
25 in order to enable them to resume custody of the
26 child."

27 14. Page 8, by inserting after line 10 the follow-
28 ing new section:

29 "Sec. _____. Section two hundred thirty-two point
30 one hundred forty-seven (232.147), subsection three
31 (3), paragraph g, Code 1979, is amended by striking
32 the paragraph."

33 15. Page 8, by inserting after line 10 the follow-
34 ing new section:

35 "Sec. _____. Section two hundred thirty-two point
36 one hundred forty-seven (232.147), Code 1979, is
37 amended by adding the following new subsection:
38 NEW SUBSECTION. All juvenile court records shall
39 be made available for inspection and their contents
40 shall be disclosed to any party to the case and his
41 or her counsel and to any trial or appellate court
42 in connection with an appeal pursuant to division
43 six (VI) of this chapter."

BY JULIA GENTLEMAN
DICK RAMSEY
EARL M. WILLITS
JOHN S. MURRAY
C. JOSEPH COLEMAN

S-3330 FILED & ADOPTED (p. 10-45)
MARCH 30, 1979

Have Judiciary 4/3
Dr. Bess 4/5 (p. 1370)

SENATE FILE 462
BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE MARCH 30, 1979)

Passed Senate, Date 5-1-79 (p. 1477) Passed House, Date 4-17-79 (p. 1573)
Vote: Ayes 50 Nays 0 Vote: Ayes 94 Nays 0

Approved June 5, 1979
Motion to reconsider p. 1578 H/R 4/24 (p. 1776)

A BILL FOR

1 An Act relating to juvenile justice provisions of the Code.

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

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_____ = New Language
by the Senate

1 Section 1. Section two hundred thirty-two point two
2 (232.2), subsection five (5), paragraph g, Code 1979, is
3 amended to read as follows:

4 g. Whose parent, guardian, or custodian fails to exercise
5 a minimal degree of care in supplying the child with adequate
6 food, clothing or shelter ~~or~~ and refuses other means made
7 available to provide such essentials.

8 Sec. 2. Section two hundred thirty-two point eight (232.8),
9 subsection one (1), unnumbered paragraph two (2), Code 1979,
10 is amended to read as follows:

11 Violations by a child of provisions of chapters 106, 106A,
12 109, one hundred nine A (109A) of the Code, 110, 110A, 110B,
13 111, 321, or 321G which would be simple misdemeanors if
14 committed by an adult, violations of county or municipal
15 curfew or traffic ordinances, and violations by a child of
16 the provisions of section 123.47, are excluded from the
17 jurisdiction of the juvenile court and shall be prosecuted
18 as simple misdemeanors as provided by law. The court may
19 advise appropriate juvenile authorities and may refer
20 violations of chapter-423 section one hundred twenty-three
21 point forty-seven (123.47) of the Code to the juvenile court
22 when there is reason to believe that the child regularly
23 abuses alcohol and may be in need of treatment.

24 Sec. 3. Section two hundred thirty-two point eleven
25 (232.11), subsection three (3), Code 1979, is amended by
26 adding the following new paragraph:

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

30 Sec. 4. Section two hundred thirty-two point twenty-two
31 (232.22), subsection one (1), paragraph c, Code 1979, is
32 amended to read as follows:

33 c. There is probable cause to believe that the child has
34 violated conditions of release imposed under section 232.54,
35 and two hundred thirty-two point forty-four (232.44),

1 subsection five (5), paragraph b of the Code and there is
2 a substantial probability that the child will run away or
3 otherwise be unavailable for subsequent court appearance;
4 or

5 Sec. 5. Section two hundred thirty-two point twenty-eight
6 (232.28), subsections one (1) and two (2), Code 1979, are
7 amended to read as follows:

8 1. Any person having knowledge of the facts may file a
9 complaint with the court or its designee alleging that a child
10 has committed a delinquent act.

11 2. The court or its designee shall refer the complaint
12 to an intake officer who shall conduct a preliminary inquiry
13 to determine what action should be taken.

14 Sec. 6. Section two hundred thirty-two point forty-one
15 (232.41), Code 1979, is amended to read as follows:

16 232.41 REPORTER REQUIRED. Stenographic notes or mechanical
17 or electronic recordings shall be taken of all court hearings
18 held pursuant to this division unless waived by the parties.
19 The child shall not be competent to waive the reporting
20 requirement, but waiver may be made for the child by the
21 child's counsel or guardian ad litem. Matters which must
22 be reported under the provisions of this section shall be
23 ~~the same as those~~ reported in the same manner as required
24 in section 624.9.

25 Sec. 7. Section two hundred thirty-two point forty-two
26 (232.42), Code 1979, is amended to read as follows:

27 232.42 CONTINUANCES.

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

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

1 Sec. 8. Section two hundred thirty-two point forty-seven
2 (232.47), Code 1979, is amended by adding the following new
3 subsection:

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

8 Sec. 9. Section two hundred thirty-two point fifty-two
9 (232.52), subsection one (1), Code 1979, is amended to read
10 as follows:

11 1. Pursuant to a hearing as provided in section 232.50,
12 the court shall enter the least restrictive dispositional
13 order appropriate in view of the seriousness of the delinquent
14 act, the child's culpability as indicated by the circumstances
15 of the particular case, the age of the child and the child's
16 prior record. The order shall specify the duration and the
17 nature of the disposition, including the type of residence
18 or confinement ordered and the individual, agency, department
19 or facility in whom custody is vested.

20 Sec. 10. Section two hundred thirty-two point fifty-two
21 (232.52), subsection two (2), unnumbered paragraph one (1),
22 Code 1979, is amended to read as follows:

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

25 Sec. 11. Section two hundred thirty-two point fifty-two
26 (232.52), subsection two (2), paragraph d, subparagraph three
27 (3), Code 1979, is amended to read as follows:

28 (3) The department of social services for purposes of
29 foster care and prescribing the type of placement. The
30 department shall designate the specific placement and program
31 which will serve the best interests of the child and the court
32 shall specify the means by which the placement shall be
33 monitored by the court.

34 Sec. 12. Section two hundred thirty-two point fifty-four
35 (232.54), subsection one (1), Code 1979, is amended to read

1 as follows:

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

12 Sec. 13. Section two hundred thirty-two point fifty-four
13 (232.54), subsection two (2), unnumbered paragraph one (1),
14 Code 1979, is amended to read as follows:

15 2. With respect to a dispositional order made pursuant
16 to section 232.52, subsection 2, paragraph paragraphs "d"
17 and "e", the court ~~may~~ shall grant a motion of the person
18 to whom custody has been transferred for termination of the
19 order and discharge of the child, for modification of the
20 order by imposition of less restrictive conditions, or for
21 vacation of the order and substitution of a less restrictive
22 order unless there is clear and convincing evidence that there
23 has not been a change of circumstance sufficient to grant
24 the motion. Notice shall be afforded all parties, and a
25 hearing shall be held at the request of any party or upon
26 the court's own motion.

27 Sec. 14. Section two hundred thirty-two point fifty-four
28 (232.54), subsection two (2), unnumbered paragraph two (2),
29 Code 1979, is amended by striking the paragraph.

30 Sec. 15. Section two hundred thirty-two point fifty-four
31 (232.54), subsections three (3) and four (4), Code 1979, are
32 amended to read as follows:

33 3. With respect to a dispositional order made pursuant
34 to section 232.52, subsection 2, paragraphs "d", or "e" or
35 "f", the court shall ~~7-in-the-absence-of-objection-by-the~~

1 ~~child~~, grant a motion of a person or agency to whom custody
2 has been transferred for modification of the order by transfer
3 to an equally restrictive placement, unless there is clear
4 and convincing evidence that there has not been a change of
5 circumstance sufficient to grant the motion. ~~If the child~~
6 ~~objects to the transfer the court may, after notice and~~
7 ~~hearing, either grant or deny the motion for transfer.~~ Notice
8 shall be afforded all parties, and a hearing shall be held
9 at the request of any party or upon the court's own motion.

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

20 Sec. 16. Section two hundred thirty-two point sixty-eight
21 (232.68), subsection two (2), paragraph b, Code 1979, is
22 amended to read as follows:

23 b. The commission of any sexual abuse offense with or
24 to a child as defined by pursuant to chapter 709 or section
25 seven hundred twenty-six point two (726.2) of the Code, as
26 a result of the acts or omissions of the person responsible
27 for the care of the child.

28 Sec. 17. Section two hundred thirty-two point seventy-
29 nine (232.79), subsection five (5), Code 1979, is amended
30 to read as follows:

31 5. When there has been an emergency removal or keeping
32 of a child without a court order, a physical examination of
33 the child by a licensed medical practitioner shall be performed
34 within twenty-four hours of such removal, unless the child
35 is returned to his or her home within twenty-four hours of

1 the removal.

2 Sec. 18. Section two hundred thirty-two point eighty-
3 one (232.81), subsection four (4), Code 1979, is amended to
4 read as follows:

5 4. A person or agency shall not maintain any records with
6 regard to a complaint filed under ~~this~~ division III of this
7 chapter which is dismissed without the filing of a petition.
8 This subsection does not apply to records maintained pursuant
9 to chapter two hundred thirty-five A (235A) of the Code.

10 Sec. 19. Section two hundred thirty-two point eighty-
11 nine (232.89), subsection two (2), Code 1979, is amended by
12 striking the subsection and inserting in lieu thereof the
13 following:

14 2. Upon the filing of a petition, the court shall appoint
15 counsel and a guardian ad litem for the child identified in
16 the petition as a party to the proceedings. Counsel shall
17 be appointed as follows:

18 a. If the child is represented by counsel and the court
19 determines there is a conflict of interest between the child
20 and his or her parent, guardian or custodian and that the
21 retained counsel could not properly represent the child as
22 a result of the conflict, the court shall appoint other counsel
23 to represent the child, who shall be compensated pursuant
24 to the provisions of section twenty (20) of this Act.

25 b. If the child is not represented by counsel, the court
26 shall either order the parent, guardian or custodian to retain
27 counsel for the child or shall appoint counsel for the child,
28 who shall be compensated pursuant to the provisions of section
29 twenty (20) of this Act.

30 Sec. 20. Section two hundred thirty-two point eighty-
31 nine (232.89), Code 1979, is amended by adding the follow-
32 ing new subsection:

33 NEW SUBSECTION. The court shall determine, after giving
34 the parent, guardian or custodian an opportunity to be heard,
35 whether such person has the ability to pay in whole or in

1 part for counsel appointed for the child. If the court
2 determines that such person possesses sufficient financial
3 ability, the court shall then consult with the department
4 of social services, the juvenile probation office or other
5 authorized agency or individual regarding the likelihood of
6 impairment of the relationship between the child and his or
7 her parent, guardian or custodian as a result of ordering
8 the parent, guardian or custodian to pay for the child's
9 counsel. If impairment is deemed unlikely, the court shall
10 order that person to pay such sums as the court finds
11 appropriate in the manner and to whom the court directs.
12 If the person so ordered fails to comply with the order without
13 good reason, the court shall enter judgment against him or
14 her. If impairment is deemed likely or if the court determines
15 that the parent, guardian or custodian cannot pay any part
16 of the expenses of counsel appointed to represent the child,
17 counsel shall be reimbursed pursuant to section two hundred
18 thirty-two point one hundred forty-one (232.141), subsection
19 one (1), paragraph d of the Code.

20 Sec. 21. Section two hundred thirty-two point eighty-nine
21 (232.89), Code 1979, is amended by adding the following new
22 subsection:

23 NEW SUBSECTION. The same person may serve both as the
24 child's counsel and as guardian ad litem.

25 Sec. 22. Section two hundred thirty-two point ninety-
26 four (232.94), Code 1979, is amended to read as follows:

27 232.94 REPORTER REQUIRED. Stenographic notes or electronic
28 or mechanical recordings shall be taken of all court hearings
29 held pursuant to this division unless waived by the parties.
30 The child shall not be competent to waive the reporting
31 requirement, but waiver may be made for the child by the
32 child's counsel or guardian ad litem. Matters which must
33 be reported under the provisions of this section shall be
34 ~~the same as these~~ reported in the same manner as required
35 in section 624.9.

1 Sec. 23. Section two hundred thirty-two point ninety-six
2 (232.96), Code 1979, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. If the court enters an order adjudicating
5 the child to be a child in need of assistance, the court,
6 if it has not previously done so, may issue an order
7 authorizing temporary removal of the child from his or her
8 home as set forth in section two hundred thirty-two point
9 ninety-five (232.95), subsection two (2), paragraph a of the
10 Code, pending a final order of disposition.

11 Sec. 24. Section two hundred thirty-two point one hundred
12 two (232.102), subsection five (5), Code 1979, is amended
13 to read as follows:

14 5. In any order transferring custody to the department
15 or an agency, or in orders pursuant to a custody order, the
16 court ~~may prescribe the type of placement~~ shall specify the
17 nature and category of disposition which will serve the best
18 interests of the child, and shall prescribe the means by which
19 the placement shall be monitored by the court. If the court
20 orders the transfer of the custody of the child to the
21 department of social services or other agency for placement,
22 the department or agency shall submit to the court a specific
23 plan for placement of the child and shall make every effort
24 to return the child to his or her home as quickly as possible.
25 If the court orders the transfer of custody to a relative
26 or other suitable person, the court may direct the department
27 or other agency to provide services to the child's parent,
28 guardian or custodian in order to enable them to resume custody
29 of the child.

30 Sec. 25. Section two hundred thirty-two point one hundred
31 eleven (232.111), subsections one (1) and two (2), Code 1979,
32 are amended to read as follows:

33 1. A child's guardian or custodian, the department of
34 social services, a juvenile probation officer or the county
35 attorney may file a petition for termination of the parent-

1 child relationship and parental rights with respect to a child
2 ~~as provided in section 232.87.~~

3 2. The department, probation officer, county attorney
4 or judge may authorize any competent person having knowledge
5 of the circumstances to file a termination petition with the
6 clerk of the court without the payment of a filing fee as
7 ~~provided in section 232.87.~~

8 Sec. 26. Section two hundred thirty-two point one hundred
9 twelve (232.112), subsection two (2), Code 1979, is amended
10 to read as follows:

11 2. Prior to the service of notice on the necessary parties,
12 the juvenile court shall appoint a guardian ad litem for a
13 ~~minor~~ child if the child does not have a guardian or guardian
14 ad litem or if the interests of the guardian or guardian ad
15 litem conflict with the interests of the child. Such guardian
16 ad litem shall be a necessary party under subsection 1.

17 Sec. 27. Chapter two hundred thirty-two (232), Code 1979,
18 is amended by adding the following new sections after section
19 two hundred thirty-two point one hundred thirteen (232.113)
20 and renumbering as necessary remaining sections of division
21 four (IV):

22 NEW SECTION. DUTIES OF COUNTY ATTORNEY. Upon the filing
23 of a petition the county attorney shall represent the state
24 in all adversary proceedings arising under this division and
25 shall present evidence in support of the petition.

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

35 Sec. 28. Section two hundred thirty-two point one hundred

1 forty-one (232.141), subsection four (4), paragraph a, Code
2 1979, is amended to read as follows:

3 a. The costs incurred under the provisions of section
4 232.52 of prior Codes by each county for the fiscal years
5 beginning July 1, ~~1974~~, 1975, ~~and~~ 1976 and 1977 shall be
6 averaged. The average cost for each county shall be that
7 county's base cost for the first fiscal year after July 1,
8 1979.

9 Sec. 29. Section two hundred thirty-two point one hundred
10 forty-seven (232.147), subsection two (2), Code 1979, is
11 amended to read as follows:

12 2. Official juvenile court records in cases alleging
13 delinquency shall be public records, subject to sealing under
14 section 232.150. If the court has excluded the public from
15 a hearing under division two (II) of this chapter, the
16 transcript of the proceedings shall not be deemed a public
17 record and inspection and disclosure of the contents of the
18 transcript shall not be permitted except pursuant to court
19 order or unless otherwise provided in this chapter.

20 Sec. 30. Section two hundred thirty-two point one hundred
21 forty-seven (232.147), subsection three (3), paragraph g,
22 Code 1979, is amended by striking the paragraph.

23 Sec. 31. Section two hundred thirty-two point one hundred
24 forty-seven (232.147), Code 1979, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. All juvenile court records shall be made
27 available for inspection and their contents shall be disclosed
28 to any party to the case and his or her counsel and to any
29 trial or appellate court in connection with an appeal pursuant
30 to division six (VI) of this chapter.

31 Sec. 32. Chapter two hundred thirty-two (232), Code 1979,
32 is amended by adding the following new section:

33 NEW SECTION. APPLICABILITY OF THIS CHAPTER PRIOR TO ITS
34 EFFECTIVE DATE.

35 1. Except as provided in subsections two (2) and three

1 (3) of this section, this chapter does not apply to juvenile
2 court cases brought prior to July 1, 1979 or to acts committed
3 prior to July 1, 1979 which would otherwise bring a child
4 or his or her parent, guardian or custodian within the
5 jurisdiction of the juvenile court pursuant to this chapter.

6 2. In a case pending on or commenced after July 1, 1979,
7 involving acts committed prior to July 1, 1979:

8 a. Upon the request of any party and the approval of the
9 court:

10 (1) Procedural provisions of this chapter shall apply
11 insofar as they are justly applicable.

12 (2) The court may order a disposition of the case pursuant
13 to the provisions of this chapter.

14 3. Provisions of this chapter governing the termination,
15 modification or vacation of a dispositional order shall apply
16 to persons to whom a dispositional order has been issued for
17 acts committed prior to July 1, 1979, except that the maximum
18 length of the order and the severity of the disposition shall
19 not be increased. The provisions of this chapter shall not
20 affect the substantive or procedural validity of a judgment
21 entered before July 1, 1979, regardless of the fact that
22 appeal time has not run or that an appeal is pending.

23 Sec. 33. Section two hundred thirty-three point five
24 (233.5), Code 1979, is amended to read as follows:

25 233.5 INTERPRETATIVE CLAUSE. For the purposes of this
26 Act chapter the word "dependency" shall mean all the conditions
27 as enumerated in section 232.2, subsection 43 five (5) of
28 the Code.

29 Sec. 34. Section two hundred thirty-two point thirteen
30 (232.13), Code 1979, is repealed.

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SF 462
ms/slc/26c

SENATE FILE 462

H-3920

- 1 Amend Senate File 462 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 10, by striking line 5 and inserting
- 4 in lieu thereof the following:
- 5 "beginning July 1, 1974, 1975 and 1976 and 1977
- 6 shall be".

H-3920 FILED *Done 4/17/79 (p. 1572)* BY DAGGETT of Taylor
APRIL 12, 1979

SENATE FILE 462

H-3908

- 1 Amend Senate File 462 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 10, by inserting after line 8 the following
- 4 new section:
- 5 "Sec. ____ Section two hundred thirty-two point
- 6 one hundred forty-one (232.141), subsection four (4),
- 7 paragraph d, Code 1979, is amended to read as follows:
- 8 d. Costs incurred under provisions of this section
- 9 which are not paid by the county under the provisions
- 10 of paragraphs "a," "b" and "c" shall be paid in whole
- 11 or in part by the state. The state shall pay one
- 12 hundred percent of the costs incurred under this
- 13 section in excess of the amount determined by
- 14 paragraph "b" for any amount not exceeding ten percent
- 15 of the amount determined by paragraph "b". The state
- 16 shall pay seventy-five percent of the costs incurred
- 17 under this section in excess of one hundred ten percent
- 18 of the amount determined by paragraph "b" and the
- 19 county shall pay the remaining twenty-five percent."
- 20 2. By changing section numbers as made necessary
- 21 by this amendment.

H-3908 FILED *W. Bruner 4/17/79 (p. 1572)* BY BRUNER of Story
APRIL 12, 1979

SENATE FILE 462

H-3774

- 1 Amend Senate File 462 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 10, by inserting after line 8 the following
- 4 new section:
- 5 "Sec. _____. Section two hundred thirty-two point
- 6 one hundred forty-one (232.141), subsection four (4),
- 7 paragraph d, Code 1979, is amended to read as follows:
- 8 d. Costs incurred under provisions of this section
- 9 which are not paid by the county under the provisions
- 10 of paragraphs "a," "b" and "c" shall be paid by the
- 11 state. The counties shall apply for reimbursement
- 12 to the department, which shall promulgate rules and
- 13 forms to carry out the provisions of this paragraph."
- 14 2. By changing section numbers as made necessary
- 15 by this amendment.

H-3774 FILED *Adopted 4/17 (p. 1572)* BY BRUNER of Story
APRIL 6, 1979 DAGGETT of Taylor
JESSE of Polk

SENATE FILE 462

H-3832

- 1 Amend Senate File 462 as follows:
- 2 1. Page 3, by striking lines 8 through 19.
- 3 2. Page 3, by striking lines 25 through 33.

H-3832 FILED *Adopted 4/17 (p. 1572)* BY HANSEN of O'Brien
APRIL 10, 1979 PELTON of Clinton

SENATE FILE 462

H-3953

- 1 Amend Senate File 462, as passed by the Senate
- 2 and reprinted, as follows:
- 3 1. Page 7, line 9, by inserting after the word
- 4 "counsel." the words "The court shall determine,
- 5 within six months from the date of the determination
- 6 of a person's ability to pay for appointed counsel,
- 7 the likelihood of impairment of the relationship
- 8 between the child and the person if the person is
- 9 ordered to pay."

H-3953 FILED
APRIL 17, 1979

BY MILLER of Buchanan
CLARK of Cerro Gordo

HOUSE AMENDMENT TO SENATE FILE 462

S-3641

- 1 Amend Senate File 462 as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 3, by striking lines 8 through 19.
- 4 2. Page 3, by striking lines 25 through 33.
- 5 3. Page 10, by inserting after line 8 the following
- 6 new section:
- 7 "Sec. _____. Section two hundred thirty-two point
- 8 one hundred forty-one (232.141), subsection four (4),
- 9 paragraph d, Code 1979, is amended to read as follows:
- 10 d. Costs incurred under provisions of this section
- 11 which are not paid by the county under the provisions
- 12 of paragraphs "a," "b" and "c" shall be paid by the
- 13 state. The counties shall apply for reimbursement
- 14 to the department, which shall promulgate rules and
- 15 forms to carry out the provisions of this paragraph."
- 16 4. By changing section numbers as made necessary
- 17 by this amendment.

S-3641 FILED
APRIL 26, 1979

RECEIVED FROM THE HOUSE

Senate Amendment S.F. (H. 1477)

SENATE FILE 462

S-3667

- 1 Amend the House Amendment S-3641 to Senate File
- 2 462 as passed and reprinted by the Senate as follows:
- 3 1. Page 1, by striking lines 3 and 4.

S-3667 FILED & LOST *(of 1979)*
MAY 1, 1979

BY JULIA GENTLEMAN

SENATE FILE 462

AN ACT

RELATING TO JUVENILE JUSTICE PROVISIONS OF THE CODE.

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

Section 1. Section two hundred thirty-two point two (232.2), subsection five (5), paragraph g, Code 1979, is amended to read as follows:

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~~ and refuses other means made available to provide such essentials.

Sec. 2. Section two hundred thirty-two point eight (232.8), subsection one (1), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

Violations by a child of provisions of chapters 106, 106A, 109, one hundred nine A (109A) of the Code, 110, 110A, 110B, 111, 321, or 321G 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 123.47, 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 123~~ section one hundred twenty-three point forty-seven (123.47) 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.

Sec. 3. Section two hundred thirty-two point eleven (232.11), subsection three (3), Code 1979, is amended by adding the following new paragraph:

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

Sec. 4. Section two hundred thirty-two point twenty-two (232.22), subsection one (1), paragraph c, Code 1979, is amended to read as follows:

c. There is probable cause to believe that the child has violated conditions of release imposed under section 232.54 and two hundred thirty-two point forty-four (232.44), subsection five (5), paragraph b of the Code and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or

Sec. 5. Section two hundred thirty-two point twenty-eight (232.28), subsections one (1) and two (2), Code 1979, are amended to read as follows:

1. Any person having knowledge of the facts may file a complaint with the court or its designee alleging that a child has committed a delinquent act.

2. The court or its designee shall refer the complaint to an intake officer who shall conduct a preliminary inquiry to determine what action should be taken.

Sec. 6. Section two hundred thirty-two point forty-one (232.41), Code 1979, is amended to read as follows:

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

Sec. 7. Section two hundred thirty-two point forty-two (232.42), Code 1979, is amended to read as follows:

232.42 CONTINUANCES.

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

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

Sec. 8. Section two hundred thirty-two point forty-seven (232.47), Code 1979, is amended by adding the following new subsection:

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

Sec. 9. Section two hundred thirty-two point fifty-two (232.52), subsection two (2), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

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

Sec. 10. Section two hundred thirty-two point fifty-four (232.54), subsection one (1), Code 1979, is amended to read as follows:

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

Sec. 11. Section two hundred thirty-two point fifty-four (232.54), subsection two (2), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

2. With respect to a dispositional order made pursuant to section 232.52, subsection 2, ~~paragraph paragraphs~~ "d" and "e", the court ~~may shall~~ grant a motion of the person to whom custody has been transferred for termination of the order and discharge of the child, for modification of the order by imposition of less restrictive conditions, or for vacation of the order and substitution of a less restrictive order unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court's own motion.

Sec. 12. Section two hundred thirty-two point fifty-four (232.54), subsection two (2), unnumbered paragraph two (2), Code 1979, is amended by striking the paragraph.

Sec. 13. Section two hundred thirty-two point fifty-four (232.54), subsections three (3) and four (4), Code 1979, are amended to read as follows:

3. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs "d", ~~or "e" or "f"~~, 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, unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. ~~If the child objects to the transfer the court may, after notice and hearing, either grant or deny the motion for transfer.~~ Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court's own motion.

4. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs "d", and "e" ~~or "f"~~, the court may, after notice and hearing, either grant or deny a motion of the child, the child's parent or guardian,

or the child's guardian ad litem, to terminate the order and discharge the child, to modify the order either by imposing less restrictive conditions or by transfer to an equally or less restrictive placement, or to vacate the order and substitute a less restrictive order. A motion may be made pursuant to this paragraph no more than once every six months.

Sec. 14. Section two hundred thirty-two point sixty-eight (232.68), subsection two (2), paragraph b, Code 1979, is amended to read as follows:

b. The commission of any sexual abuse offense with or to a child ~~as defined by~~ pursuant to chapter 709 or section seven hundred twenty-six point two (726.2) of the Code, as a result of the acts or omissions of the person responsible for the care of the child.

Sec. 15. Section two hundred thirty-two point seventy-nine (232.79), subsection five (5), Code 1979, is amended to read as follows:

5. When there has been an emergency removal or keeping of a child without a court order, a physical examination of the child by a licensed medical practitioner shall be performed within twenty-four hours of such removal, unless the child is returned to his or her home within twenty-four hours of the removal.

Sec. 16. Section two hundred thirty-two point eighty-one (232.81), subsection four (4), Code 1979, is amended to read as follows:

4. A person or agency shall not maintain any records with regard to a complaint filed under ~~this~~ division III of this chapter which is dismissed without the filing of a petition. This subsection does not apply to records maintained pursuant to chapter two hundred thirty-five A (235A) of the Code.

Sec. 17. Section two hundred thirty-two point eighty-nine (232.89), subsection two (2), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

2. Upon the filing of a petition, the court shall appoint counsel and a guardian ad litem for the child identified in

the petition as a party to the proceedings. Counsel shall be appointed as follows:

a. If the child is represented by counsel and the court determines there is a conflict of interest between the child and 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, who shall be compensated pursuant to the provisions of section eighteen (18) of this Act.

b. If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of section eighteen (18) of this Act.

Sec. 18. Section two hundred thirty-two point eighty-nine (232.89), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The court shall determine, after giving the parent, guardian or custodian an opportunity to be heard, whether such person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that such person possesses sufficient financial ability, the court shall then consult with the department of social services, the juvenile probation office or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and his or her parent, guardian or custodian as a result of ordering the parent, guardian or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay 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. If impairment is deemed likely or if the court determines that the parent, guardian or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section two hundred

thirty-two point one hundred forty-one (232.141), subsection one (1), paragraph d of the Code.

Sec. 19. Section two hundred thirty-two point eighty-nine (232.89), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The same person may serve both as the child's counsel and as guardian ad litem.

Sec. 20. Section two hundred thirty-two point ninety-four (232.94), Code 1979, is amended to read as follows:

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

Sec. 21. Section two hundred thirty-two point ninety-six (232.96), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from his or her home as set forth in section two hundred thirty-two point ninety-five (232.95), subsection two (2), paragraph a of the Code, pending a final order of disposition.

Sec. 22. Section two hundred thirty-two point one hundred two (232.102), subsection five (5), Code 1979, is amended to read as follows:

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~~ shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court

orders the transfer of the custody of the child to the department of 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.

Sec. 23. Section two hundred thirty-two point one hundred eleven (232.111), subsections one (1) and two (2), Code 1979, are amended to read as follows:

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 232.87.~~

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 232.87.~~

Sec. 24. Section two hundred thirty-two point one hundred twelve (232.112), subsection two (2), Code 1979, is amended to read as follows:

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 1.

Sec. 25. Chapter two hundred thirty-two (232), Code 1979, is amended by adding the following new sections after section two hundred thirty-two point one hundred thirteen (232.113) and renumbering as necessary remaining sections of division four (IV):

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.

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 reported in the same manner as required in section six hundred twenty-four point nine (624.9) of the Code.

Sec. 26. Section two hundred thirty-two point one hundred forty-one (232.141), subsection four (4), paragraph a, Code 1979, is amended to read as follows:

a. The costs incurred under the provisions of section 232.52 of prior Codes by each county for the fiscal years beginning July 1, 1974, 1975, and 1976 and 1977 shall be averaged. The average cost for each county shall be that county's base cost for the first fiscal year after July 1, 1979.

Sec. 27. Section two hundred thirty-two point one hundred forty-one (232.141), subsection four (4), paragraph d, Code 1979, is amended to read as follows:

d. Costs incurred under provisions of this section which are not paid by the county under the provisions of paragraphs "a," "b" and "c" shall be paid by the state. The counties shall apply for reimbursement to the department, which shall promulgate rules and forms to carry out the provisions of this paragraph.

Sec. 28. Section two hundred thirty-two point one hundred forty-seven (232.147), subsection two (2), Code 1979, is amended to read as follows:

2. Official juvenile court records in cases alleging delinquency shall be public records, subject to sealing under section 232.150. If the court has excluded the public from

a hearing under division two (II) of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter.

Sec. 29. Section two hundred thirty-two point one hundred forty-seven (232.147), subsection three (3), paragraph g, Code 1979, is amended by striking the paragraph.

Sec. 30. Section two hundred thirty-two point one hundred forty-seven (232.147), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. All juvenile court records shall be made available for inspection and their contents shall be disclosed to any party to the case and his or her counsel and to any trial or appellate court in connection with an appeal pursuant to division six (VI) of this chapter.

Sec. 31. Chapter two hundred thirty-two (232), Code 1979, is amended by adding the following new section:

NEW SECTION. APPLICABILITY OF THIS CHAPTER PRIOR TO ITS EFFECTIVE DATE.

1. Except as provided in subsections two (2) and three (3) of this section, this chapter does not apply to juvenile court cases brought prior to July 1, 1979 or to acts committed prior to July 1, 1979 which would otherwise bring a child or his or her parent, guardian or custodian within the jurisdiction of the juvenile court pursuant to this chapter.

2. In a case pending on or commenced after July 1, 1979, involving acts committed prior to July 1, 1979:

a. Upon the request of any party and the approval of the court:

(1) Procedural provisions of this chapter shall apply insofar as they are justly applicable.

(2) The court may order a disposition of the case pursuant to the provisions of this chapter.

3. Provisions of this chapter governing the termination, modification or vacation of a dispositional order shall apply to persons to whom a dispositional order has been issued for

acts committed prior to July 1, 1979, except that the maximum length of the order and the severity of the disposition shall not be increased. The provisions of this chapter shall not affect the substantive or procedural validity of a judgment entered before July 1, 1979, regardless of the fact that appeal time has not run or that an appeal is pending.

Sec. 32. Section two hundred thirty-three point five (233.5), Code 1979, is amended to read as follows:

233.5 INTERPRETATIVE CLAUSE. For the purposes of this Act chapter the word "dependency" shall mean all the conditions as enumerated in section 232.2, subsection ~~13~~ five (5) of the Code.

Sec. 33. Section two hundred thirty-two point thirteen (232.13), Code 1979, is repealed.

TERRY E. BRANSTAD
President of the Senate

FLOYD H. MILLEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 462, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved June 5, 1979

ROBERT D. RAY
Governor