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Judiciary and Law Enforcement: Chapman, Chair; Clark, Doderer, Haverland, Holveck, Shoning and Siegrist.

Amend (3330) to Do Pass 3/20/85

FEB 5 1985

Judiciary & Law Enforcement

HOUSE FILE 204

BY ROSENBERG

Passed House, Date 3-25-85 (p. 1033) Passed Senate, Date 4-16-85 (P. 1407)
Vote: Ayes 96 Nays 0 Vote: Ayes 44 Nays 0
Approved May 15, 1985

A BILL FOR

- 1 An Act relating to the waiver of the juvenile court's jurisdiction
- 2 for the alleged commission of public offenses.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 204

H-3380

- 1 Amend House File 204 as follows:
- 2 1. Page 2, line 2, by striking the word "or" and
- 3 inserting the words "or and".
- 4 2. Page 2, by inserting after line 12 the
- 5 following:
- 6 "Sec. 2. Section 232.45, Code 1985, is amended by
- 7 adding after subsection 10 the following new
- 8 subsection:
- 9 NEW SUBSECTION. 11. The waiver does not apply to
- 10 other delinquent acts which are not alleged in the
- 11 delinquency petition presented at the waiver hearing."

HF 204

H-3380 FILED MARCH 20, 1985

BY COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT

Adopted 3/25 (p. 1033)

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1 Section 1. Section 232.45, subsections 1, 4, 6, 8, and 10,
2 Code 1985, are amended to read as follows:

3 1. After the filing of a petition which alleges that a
4 child has committed a delinquent act on the basis of an
5 alleged commission of a public offense and before an
6 adjudicatory hearing on the merits of the petition is held,
7 the county attorney or the child may file a motion requesting
8 the court to waive its jurisdiction over the child for the
9 alleged commission of the public offense.

10 4. Prior to the waiver hearing, the juvenile probation
11 officer or other person or agency designated by the court
12 shall conduct an investigation for the purpose of collecting
13 information relevant to the court's decision to waive its
14 jurisdiction over the child for the alleged commission of the
15 public offense and shall submit a report concerning ~~such~~ the
16 investigation to the court. The report shall include any
17 recommendations made concerning waiver. Prior to the hearing
18 the court shall provide the child's counsel and the county
19 attorney with access to the report and to all written material
20 to be considered by the court.

21 6. At the conclusion of the waiver hearing the court may
22 waive its jurisdiction over the child for the alleged
23 commission of the public offense if all of the following
24 apply:

25 a. The child is fourteen years of age or older ~~and~~.
26 b. The court determines, or has previously determined in a
27 detention hearing under section 232.44, that there is probable
28 cause to believe that the child has committed a delinquent act
29 which would constitute a the public offense ~~and~~.

30 c. The court determines that the state has established
31 that there are not reasonable prospects for rehabilitating the
32 child ~~in-the-event~~ if the juvenile court retains jurisdiction
33 over the child and the child is adjudicated to have committed
34 a the delinquent act, and that waiver of the court's
35 jurisdiction over the child for the alleged commission of the

1 public offense would be in the best ~~interest~~ interests of the
3380 2 child or the community.

3 8. If at the conclusion of the hearing the court waives
4 its jurisdiction over the child for the alleged commission of
5 the public offense, the court shall make and file written
6 findings as to its reasons for waiving its jurisdiction.

7 10. If the court waives its jurisdiction over the child
8 for the alleged commission of the public offense so that the
9 child may be prosecuted as an adult, the judge who made the
10 waiver decision shall not preside at any subsequent
11 proceedings in connection with that prosecution ~~over-the~~
12 ~~objection-of~~ if the child objects.

33807

13 EXPLANATION

14 This bill provides that the juvenile court's waiver of
15 jurisdiction over a child so that the child may be prosecuted
16 as an adult in district court applies only to the alleged
17 commission of one or more public offenses. The waiver does
18 not apply to other delinquent acts of the child which are not
19 alleged to have been committed by the child in the delinquency
20 petition or at the waiver hearing.

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JUDICIARY: Mann, Chair; Gentleman and Horn

HOUSE FILE 204

BY ROSENBERG

(As Amended and Passed by the House March 25, 1985)

Passed House, Date 3-25-85 (p.1033) Passed Senate, Date 4-16-85 (p.1407)
Vote: Ayes 96 Nays 0 Vote: Ayes 44 Nays 0
Approved May 15, 1985

A BILL FOR

1 An Act relating to the waiver of the juvenile court's jurisdiction
2 for the alleged commission of public offenses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Section 232.45, subsections 1, 4, 6, 8, and 10,
2 Code 1985, are amended to read as follows:

3 1. After the filing of a petition which alleges that a
4 child has committed a delinquent act on the basis of an
5 alleged commission of a public offense and before an
6 adjudicatory hearing on the merits of the petition is held,
7 the county attorney or the child may file a motion requesting
8 the court to waive its jurisdiction over the child for the
9 alleged commission of the public offense.

10 4. Prior to the waiver hearing, the juvenile probation
11 officer or other person or agency designated by the court
12 shall conduct an investigation for the purpose of collecting
13 information relevant to the court's decision to waive its
14 jurisdiction over the child for the alleged commission of the
15 public offense and shall submit a report concerning ~~such~~ the
16 investigation to the court. The report shall include any
17 recommendations made concerning waiver. Prior to the hearing
18 the court shall provide the child's counsel and the county
19 attorney with access to the report and to all written material
20 to be considered by the court.

21 6. At the conclusion of the waiver hearing the court may
22 waive its jurisdiction over the child for the alleged
23 commission of the public offense if all of the following
24 apply:

25 a. The child is fourteen years of age or older~~;-and.~~
26 b. The court determines, or has previously determined in a
27 detention hearing under section 232.44, that there is probable
28 cause to believe that the child has committed a delinquent act
29 which would constitute a the public offense~~;-and.~~

30 c. The court determines that the state has established
31 that there are not reasonable prospects for rehabilitating the
32 child ~~in-the-event~~ if the juvenile court retains jurisdiction
33 over the child and the child is adjudicated to have committed
34 a the delinquent act, and that waiver of the court's
35 jurisdiction over the child for the alleged commission of the

1 public offense would be in the best interest interests of the
2 child ~~or~~ and the community.

3 8. If at the conclusion of the hearing the court waives
4 its jurisdiction over the child for the alleged commission of
5 the public offense, the court shall make and file written
6 findings as to its reasons for waiving its jurisdiction.

7 10. If the court waives its jurisdiction over the child
8 for the alleged commission of the public offense so that the
9 child may be prosecuted as an adult, the judge who made the
10 waiver decision shall not preside at any subsequent
11 proceedings in connection with that prosecution ~~over-the~~
12 ~~objection-of~~ if the child objects.

13 Sec. 2. Section 232.45, Code 1985, is amended by adding
14 after subsection 10 the following new subsection:

15 NEW SUBSECTION. 11. The waiver does not apply to other
16 delinquent acts which are not alleged in the delinquency
17 petition presented at the waiver hearing.

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HOUSE FILE 204

AN ACT

RELATING TO THE WAIVER OF THE JUVENILE COURT'S JURISDICTION
FOR THE ALLEGED COMMISSION OF PUBLIC OFFENSES.

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

Section 1. Section 232.45, subsections 1, 4, 6, 8, and 10, Code 1985, are amended to read as follows:

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 over the child for the alleged commission of the public offense.

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 for the alleged commission of the public offense and shall submit a report concerning such the

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.

6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense if all of the following apply:

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 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute ~~a~~ the 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~~ if the juvenile court retains jurisdiction over the child and the child is adjudicated to have committed ~~a~~ the delinquent act, and that waiver of the court's jurisdiction over the child for the alleged commission of the public offense would be in the best ~~interest~~ interests of the child ~~or~~ and the community.

8. If at the conclusion of the hearing the court waives its jurisdiction over the child for the alleged commission of the public offense, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

10. If the court waives its jurisdiction over the child for the alleged commission of the public offense 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~~ if the child objects.

Sec. 2. Section 232.45, Code 1985, is amended by adding after subsection 10 the following new subsection:

NEW SUBSECTION. 11. The waiver does not apply to other delinquent acts which are not alleged in the delinquency petition presented at the waiver hearing.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 204, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 15, 1985

TERRY E. BRANSTAD
Governor