

Reprinted 3/21/86

Judiciary and Law Enforcement: Chapman, Chair: Clark and Rosenberg.

Do Pass 3/7 (p 608)

FEB 25 1986

HOUSE FILE 2363

BY ROSENBERG

Judiciary & Law Enforcement

Passed House, Date 3-18-86 (p 872) Passed Senate, Date _____

Vote: Ayes 94 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act amending the juvenile justice code by applying statutes of
2 limitations to delinquency cases, retaining juvenile court
3 jurisdiction for one year beyond the attachment of
4 jurisdiction, providing for the appointment of separate
5 guardians ad litem, providing that adults under the juvenile
6 court's jurisdiction are not bailable but must be detained
7 separately from other adults, providing for chemical
8 dependency evaluations as either physical or mental
9 examinations, providing for the application of civil
10 commitment procedures in delinquency cases, establishing
11 standards of proof for certain proceedings removing persons
12 from the home, providing for the submission of social
13 investigation reports prior to the entering of child-in-need-
14 of-assistance dispositions, providing for involuntary
15 termination of parental rights under certain conditions
16 involving ineffectiveness of corrective services, and
17 providing for appeals of delinquency cases after disposition.
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 2363

HOUSE FILE 2363

H-5287

1 Amend House File 2363 as follows:

2 1. Page 1, lines 23 and 24, by striking the words
3 "may retain its" and inserting the following: "has".

H-5287 FILED MARCH 10, 1986 BY CHAPMAN of Linn

Adopted 3/18 (p 875)

1 Section 1. Section 232.8, subsection 1, unnumbered
2 paragraph 1 and paragraphs a and b, Code 1985, are amended to
3 read as follows:

4 The juvenile court ~~shall have~~ has exclusive original
5 jurisdiction in proceedings concerning ~~any~~ a child who is
6 alleged to have committed a delinquent act unless otherwise
7 provided by law, and ~~shall have~~ has exclusive original
8 jurisdiction in proceedings concerning an adult who is alleged
9 to have committed a delinquent act prior to having become an
10 adult, provided that the taking of that person into custody
11 for the alleged act or the filing of a delinquency petition
12 alleging the commission of the act occurs within the time
13 periods and under the conditions specified in chapter 802.

14 ~~a.--Less than one year after the alleged commission of an~~
15 ~~act which would be a simple misdemeanor if committed by an~~
16 ~~adult; or~~

17 ~~b.--Less than two years after the alleged commission of an~~
18 ~~act which would be an offense other than a simple misdemeanor~~
19 ~~if committed by an adult.~~

20 Sec. 2. Section 232.8, subsection 1, Code 1985, is amended
21 by adding the following new unnumbered paragraph immediately
22 after paragraph b:

23 NEW UNNUMBERED PARAGRAPH. The juvenile court may retain
24 its jurisdiction over such an adult for one year beyond the
25 last date upon which jurisdiction over the adult attaches
26 under this subsection.

27 Sec. 3. Section 232.11, Code 1985, is amended by adding
28 the following new subsection:

29 NEW SUBSECTION. 7. In addition to the appointment of a
30 legal counsel, the court may appoint a separate guardian ad
31 litem if the legal counsel cannot properly represent the best
32 interest of the child.

33 Sec. 4. Section 232.22, Code 1985, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 5. An adult within the jurisdiction of

1 the court under section 232.8, subsection 1, who has been
2 placed in detention, is not bailable under chapter 811. If
3 such an adult is detained in a room in a facility intended or
4 used for the detention of adults, the adult shall be confined
5 in a room entirely separated from adults not within the
6 jurisdiction of the court under section 232.8, subsection 1.

7 Sec. 5. Section 232.49, subsection 1, Code 1985, is
8 amended to read as follows:

9 1. Following the entry of an order of adjudication under
10 section 232.47 the court may, after a hearing which may be
11 simultaneous with the adjudicatory hearing, order a physical
12 or mental examination of the child if it finds that an
13 examination is necessary to determine the child's physical or
14 mental condition. The court may consider chemical dependency
15 as either a physical or mental condition and may consider a
16 chemical dependency evaluation as either a physical or mental
17 examination.

18 Sec. 6. Section 232.51, Code 1985, is amended to read as
19 follows:

20 232.51 DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED
21 CHILD.

22 If the evidence received at an adjudicatory or a
23 dispositional hearing indicates that the child is mentally
24 ill, the court may direct the juvenile court officer or the
25 department to initiate proceedings or to assist the child's
26 parent or guardian to initiate civil commitment proceedings in
27 the juvenile court. Such These proceedings in the juvenile
28 court shall adhere to the requirements of chapter 229. If the
29 evidence received at an adjudicatory or a dispositional
30 hearing indicates that the child is mentally retarded, the
31 court may direct the juvenile court officer or the department
32 to initiate proceedings or to assist the child's parent or
33 guardian to initiate civil commitment proceedings in the
34 juvenile court. Such These proceedings shall adhere to the
35 requirements of chapter 222. In-the-event If the child is

1 committed as a mentally ill or mentally retarded child, any
2 order adjudicating the child to have committed a delinquent
3 act shall be set aside and the petition shall be dismissed.

4 Sec. 7. Section 232.82, subsection 1, Code 1985, is
5 amended to read as follows:

6 1. Notwithstanding section 561.15, if it is alleged by a
7 person authorized to file a petition under section 232.87,
8 subsection 2, or by the court on its own motion, that a
9 parent, guardian, custodian, or an adult member of the
10 household in which a child resides has committed a sexual
11 offense with or against the child, pursuant to chapter 709 or
12 section 726.2, the juvenile court may enter an ex parte order
13 requiring the alleged sexual offender to vacate the child's
14 residence upon a showing that probable cause exists to believe
15 that the sexual offense has occurred and that substantial
16 evidence exists to believe that the presence of the alleged
17 sexual offender in the child's residence presents a danger to
18 the child's life or physical, emotional, or mental health.

19 Sec. 8. Section 232.89, subsection 4, Code 1985, is
20 amended to read as follows:

21 4. The same person may serve both as the child's counsel
22 and as guardian ad litem. However, the court may appoint a
23 separate guardian ad litem, if the same person cannot properly
24 represent the legitimate wishes of the child as legal counsel
25 and also represent the best interest of the child as guardian
26 ad litem.

27 Sec. 9. Section 232.95, subsection 2, paragraph a,
28 unnumbered paragraph 1, Code 1985, is amended to read as
29 follows:

30 Remove the child from home and place the child in a shelter
31 care facility or in the custody of a suitable person or agency
32 pending a final order of disposition if the court finds that
33 substantial evidence exists to believe that removal is
34 necessary to avoid imminent risk to the child's life or
35 health.

1 Sec. 10. Section 232.97, subsection 1, Code 1985, is
2 amended to read as follows:

3 1. The court shall not make a disposition of the petition
4 until two working days after a social report has been
5 submitted to the court and counsel for the child and has been
6 considered by the court. The court may waive the two-day
7 requirement upon agreement by all the parties. The court may
8 direct either the juvenile court officer or the department of
9 human services or any other agency licensed by the state to
10 conduct a social investigation and to prepare a social report
11 which may include any evidence provided by an individual
12 providing foster care for the child. A report prepared shall
13 include any founded reports of child abuse.

14 Sec. 11. Section 232.98, subsection 1, unnumbered
15 paragraph 1, Code Supplement 1985, is amended to read as
16 follows:

17 Except as provided in section 232.78, subsection 4, a
18 physical or mental examination of the child may be ordered
19 only after the filing of a petition pursuant to section 232.87
20 and after a hearing to determine whether an examination is
21 necessary to determine the child's physical or mental
22 condition. The court may consider chemical dependency as
23 either a physical or mental condition and may consider a
24 chemical dependency evaluation as either a physical or mental
25 examination.

26 Sec. 12. Section 232.116, subsection 3, paragraph c, Code
27 1985, is amended to read as follows:

28 c. There is clear and convincing evidence that the parents
29 ~~had-received-or~~ were offered but refused services or failed to
30 cooperate to correct the situation which led to the abuse or
31 that the parents had received services to correct the situa-
32 tion which led to the abuse but the services did not correct
33 the abusive situation.

34 Sec. 13. Section 232.133, subsection 1, Code 1985, is
35 amended to read as follows:

1 1. Any An interested party aggrieved by any an order or
2 decree of the juvenile court may appeal from the court for
3 review of questions of law or fact. However, an order
4 adjudicating a child to have committed a delinquent act,
5 entered pursuant to section 232.47, shall not be appealed
6 until the court enters a corresponding dispositional order
7 pursuant to section 232.52.

8 EXPLANATION

9 Section 1 of this bill provides that juvenile court juris-
10 diction attaches to delinquent acts committed by a child if
11 the child is taken into custody or a delinquency petition is
12 filed within the applicable statute of limitations for adults
13 in chapter 802.

14 Section 2 provides that the juvenile court retains juris-
15 diction over an adult, who committed a delinquent act while a
16 child, for one year beyond the last date when jurisdiction
17 attaches.

18 Section 3 provides for the appointment of a guardian ad
19 litem in addition to the appointment of legal counsel in ju-
20 venile delinquency cases if the legal counsel cannot properly
21 represent the best interest of the child.

22 Section 4 provides that adults within the jurisdiction of
23 the juvenile court are not bailable under chapter 811 and must
24 be detained in adult jails separately from adults not within
25 the jurisdiction of the juvenile court.

26 Section 5 provides that in juvenile delinquency cases
27 chemical dependency may be considered either a physical or
28 mental condition and that a chemical dependency evaluation may
29 be considered either a physical or mental examination.

30 Section 6 requires juvenile court proceedings to civilly
31 commit an allegedly delinquent child to adhere to chapter 229
32 civil commitment standards and procedures.

33 Section 7 provides that the standard of proof for
34 determining danger to a child is substantial evidence in a
35 proceeding requesting the removal of an alleged sexual

1 offender from the offender's household by ex parte order.

2 Section 8 provides that a separate guardian ad litem may be
3 appointed in child-in-need-of-assistance proceedings if the
4 same person cannot represent both the wishes and the best in-
5 terest of the child.

6 Section 9 provides that the standard of proof for determin-
7 ing imminent risk to a child's life or health is substantial
8 evidence in a proceeding requesting the temporary removal of a
9 child from the child's home.

10 Section 10 requires the report of the social investigation
11 in a child-in-need-of-assistance case to be submitted to the
12 court and the child's legal counsel two working days prior to
13 ordering a disposition in the case, unless all parties agree
14 to waive the requirement.

15 Section 11 provides that in child-in-need-of-assistance
16 cases chemical dependency may be considered either a physical
17 or mental condition and that a chemical dependency evaluation
18 may be considered either a physical or mental examination.

19 Section 12 provides that an involuntary termination of
20 parental rights can only be ordered if the parents have either
21 refused corrective services or received such services which
22 proved to be ineffective in correcting the abusive situation
23 or have failed to cooperate to correct the situation.

24 Section 13 provides that an order adjudicating a child to
25 have committed a delinquent act shall not be appealed until
26 the corresponding dispositional order has been entered.

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Am. Judiciary 3/21 R. Pass 3/28 (g. 9327)

HOUSE FILE 2363

BY ROSENBERG

(As Amended and Passed by the House March 18, 1986)

Passed House, Date 4-17-86 (g. 1517) Passed Senate, Date 4-2-86 (g. 1093)

Vote: Ayes 95 Nays 0 Vote: Ayes 42 Nays 0

Approved May 7, 1986

A BILL FOR

1 An Act amending the juvenile justice code by applying statutes of
 2 limitations to delinquency cases, retaining juvenile court
 3 jurisdiction for one year beyond the attachment of
 4 jurisdiction, providing for the appointment of separate
 5 guardians ad litem, providing that adults under the juvenile
 6 court's jurisdiction are not bailable but must be detained
 7 separately from other adults, providing for chemical
 8 dependency evaluations as either physical or mental
 9 examinations, providing for the application of civil
 10 commitment procedures in delinquency cases, establishing
 11 standards of proof for certain proceedings removing persons
 12 from the home, providing for the submission of social
 13 investigation reports prior to the entering of child-in-need-
 14 of-assistance dispositions, providing for involuntary
 15 termination of parental rights under certain conditions
 16 involving ineffectiveness of corrective services, and
 17 providing for appeals of delinquency cases after disposition.

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

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House Amendments _____

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2 paragraph 1 and paragraphs a and b, Code 1985, are amended to
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5 jurisdiction in proceedings concerning ~~any~~ a child who is
6 alleged to have committed a delinquent act unless otherwise
7 provided by law, and ~~shall have~~ has exclusive original
8 jurisdiction in proceedings concerning an adult who is alleged
9 to have committed a delinquent act prior to having become an
10 adult, provided that the taking of that person into custody
11 for the alleged act or the filing of a delinquency petition
12 alleging the commission of the act occurs within the time
13 periods and under the conditions specified in chapter 802.

14 ~~a.--Less than one year after the alleged commission of an~~
15 ~~act which would be a simple misdemeanor if committed by an~~
16 ~~adult; or~~

17 ~~b.--Less than two years after the alleged commission of an~~
18 ~~act which would be an offense other than a simple misdemeanor~~
19 ~~if committed by an adult.~~

20 Sec. 2. Section 232.8, subsection 1, Code 1985, is amended
21 by adding the following new unnumbered paragraph immediately
22 after paragraph b:

23 NEW UNNUMBERED PARAGRAPH. The juvenile court has
24 jurisdiction over such an adult for one year beyond the last
25 date upon which jurisdiction over the adult attaches under
26 this subsection.

27 Sec. 3. Section 232.11, Code 1985, is amended by adding
28 the following new subsection:

29 NEW SUBSECTION. 7. In addition to the appointment of a
30 legal counsel, the court may appoint a separate guardian ad
31 litem if the legal counsel cannot properly represent the best
32 interest of the child.

33 Sec. 4. Section 232.22, Code 1985, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 5. An adult within the jurisdiction of

1 the court under section 232.8, subsection 1, who has been
2 placed in detention, is not bailable under chapter 811. If
3 such an adult is detained in a room in a facility intended or
4 used for the detention of adults, the adult shall be confined
5 in a room entirely separated from adults not within the
6 jurisdiction of the court under section 232.8, subsection 1.

7 Sec. 5. Section 232.49, subsection 1, Code 1985, is
8 amended to read as follows:

9 1. Following the entry of an order of adjudication under
10 section 232.47 the court may, after a hearing which may be
11 simultaneous with the adjudicatory hearing, order a physical
12 or mental examination of the child if it finds that an
13 examination is necessary to determine the child's physical or
14 mental condition. The court may consider chemical dependency
15 as either a physical or mental condition and may consider a
16 chemical dependency evaluation as either a physical or mental
17 examination.

18 Sec. 6. Section 232.51, Code 1985, is amended to read as
19 follows:

20 232.51 DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED
21 CHILD.

22 If the evidence received at an adjudicatory or a
23 dispositional hearing indicates that the child is mentally
24 ill, the court may direct the juvenile court officer or the
25 department to initiate proceedings or to assist the child's
26 parent or guardian to initiate civil commitment proceedings in
27 the juvenile court. Such These proceedings in the juvenile
28 court shall adhere to the requirements of chapter 229. If the
29 evidence received at an adjudicatory or a dispositional
30 hearing indicates that the child is mentally retarded, the
31 court may direct the juvenile court officer or the department
32 to initiate proceedings or to assist the child's parent or
33 guardian to initiate civil commitment proceedings in the
34 juvenile court. Such These proceedings shall adhere to the
35 requirements of chapter 222. ~~In-the-event~~ If the child is

1 committed as a mentally ill or mentally retarded child, any
2 order adjudicating the child to have committed a delinquent
3 act shall be set aside and the petition shall be dismissed.

4 Sec. 7. Section 232.82, subsection 1, Code 1985, is
5 amended to read as follows:

6 1. Notwithstanding section 561.15, if it is alleged by a
7 person authorized to file a petition under section 232.87,
8 subsection 2, or by the court on its own motion, that a
9 parent, guardian, custodian, or an adult member of the
10 household in which a child resides has committed a sexual
11 offense with or against the child, pursuant to chapter 709 or
12 section 726.2, the juvenile court may enter an ex parte order
13 requiring the alleged sexual offender to vacate the child's
14 residence upon a showing that probable cause exists to believe
15 that the sexual offense has occurred and that substantial
16 evidence exists to believe that the presence of the alleged
17 sexual offender in the child's residence presents a danger to
18 the child's life or physical, emotional, or mental health.

19 Sec. 8. Section 232.89, subsection 4, Code 1985, is
20 amended to read as follows:

21 4. The same person may serve both as the child's counsel
22 and as guardian ad litem. However, the court may appoint a
23 separate guardian ad litem, if the same person cannot properly
24 represent the legitimate wishes of the child as legal counsel
25 and also represent the best interest of the child as guardian
26 ad litem.

27 Sec. 9. Section 232.95, subsection 2, paragraph a,
28 unnumbered paragraph 1, Code 1985, is amended to read as
29 follows:

30 Remove the child from home and place the child in a shelter
31 care facility or in the custody of a suitable person or agency
32 pending a final order of disposition if the court finds that
33 substantial evidence exists to believe that removal is
34 necessary to avoid imminent risk to the child's life or
35 health.

1 Sec. 10. Section 232.97, subsection 1, Code 1985, is
2 amended to read as follows:

3 1. The court shall not make a disposition of the petition
4 until two working days after a social report has been
5 submitted to the court and counsel for the child and has been
6 considered by the court. The court may waive the two-day
7 requirement upon agreement by all the parties. The court may
8 direct either the juvenile court officer or the department of
9 human services or any other agency licensed by the state to
10 conduct a social investigation and to prepare a social report
11 which may include any evidence provided by an individual
12 providing foster care for the child. A report prepared shall
13 include any founded reports of child abuse.

14 Sec. 11. Section 232.98, subsection 1, unnumbered
15 paragraph 1, Code Supplement 1985, is amended to read as
16 follows:

17 Except as provided in section 232.78, subsection 4, a
18 physical or mental examination of the child may be ordered
19 only after the filing of a petition pursuant to section 232.87
20 and after a hearing to determine whether an examination is
21 necessary to determine the child's physical or mental
22 condition. The court may consider chemical dependency as
23 either a physical or mental condition and may consider a
24 chemical dependency evaluation as either a physical or mental
25 examination.

26 Sec. 12. Section 232.116, subsection 3, paragraph c, Code
27 1985, is amended to read as follows:

28 c. There is clear and convincing evidence that the parents
29 ~~had-received-or~~ were offered but refused services or failed to
30 cooperate to correct the situation which led to the abuse or
31 that the parents had received services to correct the situa-
32 tion which led to the abuse but the services did not correct
33 the abusive situation.

34 Sec. 13. Section 232.133, subsection 1, Code 1985, is
35 amended to read as follows:

1 1. Any An interested party aggrieved by any an order or
2 decree of the juvenile court may appeal from the court for
3 review of questions of law or fact. However, an order
4 adjudicating a child to have committed a delinquent act,
5 entered pursuant to section 232.47, shall not be appealed
6 until the court enters a corresponding dispositional order
7 pursuant to section 232.52.

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SENATE AMENDMENT TO HOUSE FILE 2363

H-5800

1 Amend House File 2363 as amended, passed and re-
2 printed by the House as follows:
3 1. Page 1, by striking lines 27 through 32.
4 2. Page 3, line 24, by striking the words "legiti-
5 mate wishes" and inserting in lieu thereof the follow-
6 ing: "legal interests".
7 3. By renumbering, relettering, or redesignating
8 and correcting internal references as necessary.

H-5800 FILED APRIL 10, 1986 RECEIVED FROM THE SENATE
House concurred 4/16 (p. 1517)

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HOUSE FILE 2363

S-5565

- 1 Amend House File 2363 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 3, by striking lines 19 through 26.

S-5565 Filed April 3, 1986

BY GENTLEMAN

Adopted 4/8 (p. 1097)

HOUSE FILE 2363

S-5616

- 1 Amend House File 2363 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 3, line 24, by striking the words "legiti-
- 4 mate wishes" and inserting in lieu thereof the follow-
- 5 ing: "legal interests".

S-5616 Filed April 7, 1986

BY RITSEMA

Adopted 4/8 (p. 1099)

HOUSE FILE 2363

S-5618

- 1 Amend House File 2363 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 1, by striking lines 27 through 32.

S-5618 Filed April 7, 1986

BY GENTLEMAN

Adopted 4/8 (p. 1097)

HOUSE FILE 2363

AN ACT

AMENDING THE JUVENILE JUSTICE CODE BY APPLYING STATUTES OF LIMITATIONS TO DELINQUENCY CASES, RETAINING JUVENILE COURT JURISDICTION FOR ONE YEAR BEYOND THE ATTACHMENT OF JURISDICTION, PROVIDING FOR THE APPOINTMENT OF SEPARATE GUARDIANS AD LITEM, PROVIDING THAT ADULTS UNDER THE JUVENILE COURT'S JURISDICTION ARE NOT BAILABLE BUT MUST BE DETAINED SEPARATELY FROM OTHER ADULTS, PROVIDING FOR CHEMICAL DEPENDENCY EVALUATIONS AS EITHER PHYSICAL OR MENTAL EXAMINATIONS, PROVIDING FOR THE APPLICATION OF CIVIL COMMITMENT PROCEDURES IN DELINQUENCY CASES, ESTABLISHING STANDARDS OF PROOF FOR CERTAIN PROCEEDINGS REMOVING PERSONS FROM THE HOME, PROVIDING FOR THE SUBMISSION OF SOCIAL INVESTIGATION REPORTS PRIOR TO THE ENTERING OF CHILD-IN-NEED-OF-ASSISTANCE DISPOSITIONS, PROVIDING FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS UNDER CERTAIN CONDITIONS INVOLVING INEFFECTIVENESS OF CORRECTIVE SERVICES, AND PROVIDING FOR APPEALS OF DELINQUENCY CASES AFTER DISPOSITION.

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

Section 1. Section 232.8, subsection 1, unnumbered paragraph 1 and paragraphs a and b, Code 1985, are amended to read as follows:

The juvenile court shall have has exclusive original jurisdiction in proceedings concerning any a child who is alleged to have committed a delinquent act unless otherwise provided by law, and shall have has 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 within the time periods and under the conditions specified in chapter 802.

~~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;~~

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Sec. 3. Section 232.22, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An adult within the jurisdiction of the court under section 232.8, subsection 1, who has been placed in detention, is not bailable under chapter 811. If such an adult is detained in a room in a facility intended or used for the detention of adults, the adult shall be confined in a room entirely separated from adults not within the jurisdiction of the court under section 232.8, subsection 1.

Sec. 4. Section 232.49, subsection 1, Code 1985, is amended to read as follows:

H.F. 2363

1. Following the entry of an order of adjudication under section 232.47 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. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination.

Sec. 5. Section 232.51, Code 1985, is amended to read as follows:

232.51 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 court 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 These proceedings in the juvenile court shall adhere to the requirements of chapter 229. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile court 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 These proceedings shall adhere to the requirements of chapter 222. in-the-event If 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. 6. Section 232.82, subsection 1, Code 1985, is amended to read as follows:

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87,

subsection 2, or by the court on its own motion, that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, the juvenile court may enter an ex parte order requiring the alleged sexual offender to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense has occurred and that substantial evidence exists to believe that the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

Sec. 7. Section 232.89, subsection 4, Code 1985, is amended to read as follows:

4. The same person may serve both as the child's counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as guardian ad litem.

Sec. 8. Section 232.95, subsection 2, paragraph a, unnumbered paragraph 1, Code 1985, is amended to read as follows:

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 substantial evidence exists to believe that removal is necessary to avoid imminent risk to the child's life or health.

Sec. 9. Section 232.97, subsection 1, Code 1985, is amended to read as follows:

1. The court shall not make a disposition of the petition until two working days after a social report has been submitted to the court and counsel for the child and has been considered by the court. The court may waive the two-day

requirement upon agreement by all the parties. The court may direct either the juvenile court officer or the department of human services or any other agency licensed by the state to conduct a social investigation and to prepare a social report which may include any evidence provided by an individual providing foster care for the child. A report prepared shall include any founded reports of child abuse.

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Except as provided in section 232.78, subsection 4, a physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 and after a hearing to determine whether an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination.

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Sec. 12. Section 232.133, subsection 1, Code 1985, is amended to read as follows:

1. Any an interested party aggrieved by any an order or decree of the juvenile court may appeal from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section 232.47, shall not be appealed

until the court enters a corresponding dispositional order pursuant to section 232.52.

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 2363, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 7, 1986

TERRY E. BRANSTAD
Governor

H.F. 2363