

Amended per 12/16/88 H. Res. # 1 of 520

Reprinted

FEB 18 1988

Judiciary & Law Enforcement

HOUSE FILE 2278

BY COMMITTEE ON HUMAN RESOURCES

(Formerly House Study Bill 555)

Passed House, Date 3/24/88 (p.m.) Passed Senate, Date _____

Vote: Ayes 47 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the issuance of citations to juveniles, the
2 detention of juveniles and restrictions on the detention of
3 juveniles in adult facilities, and providing penalties.

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

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HOUSE FILE 2278
FISCAL NOTE
REQUESTED BY REPRESENTATIVE DRY

In compliance with a written request received February 12, 1988, a fiscal note for HOUSE FILE 2278 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2278 relates to the issuance of citations to juveniles, detention and restrictions on detention in adult facilities of juveniles, and providing penalties.

Sections 1 and 4 through 7 of this bill provide that a peace officer shall issue a citation to a juvenile accused of committing a simple misdemeanor in lieu of making a warrantless arrest, unless the person refuses to sign the citation, persists in engaging in the conduct for which the citation is issued, refuses to provide proper identification, or constitutes an immediate threat. A juvenile may be taken by a peace officer to a jail facility provided that the juvenile is always accompanied by an officer and is not placed in a detention area. This bill provides sentencing procedures for juveniles bound over to district court on misdemeanors.

Section 2 lowers the age at which a juvenile may be held in an adult facility from 16 to 14. Probable cause must exist to believe that the juvenile has committed an act which would be a felony if it was committed by an adult, a serious or aggravated misdemeanor, or a violation of section 123.46, for which additional restrictions apply.

Section 3 provides that the time restrictions for detention of a juvenile in an adult facility do not apply to a juvenile waived to adult court for a felony offense.

FISCAL EFFECT: The Department of Human Services has determined that this bill has no fiscal impact upon the state. It is possible that there will be increased use of jail facilities to detain juveniles, thus increasing county expenditures.

Source: Department of Human Services (LSB 8232K, JMN)

FILED MARCH 11, 1988

BY DENNIS PRONTY, FISCAL DIRECTOR

HF 2278

TLSB 8232HV 72

tj/cin/8

1 Section 1. Section 232.8, subsection 1, unnumbered
2 paragraph 3, Code Supplement 1987, is amended to read as
3 follows:

4 Violations by a child of provisions of chapter 106, 106A,
5 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be
6 simple misdemeanors if committed by an adult, and violations
7 of county or municipal curfew or traffic ordinances, and
8 violations by a child of the provisions of section 123.47, are
9 excluded from the jurisdiction of the juvenile court and shall
10 be prosecuted as simple misdemeanors as provided by law. The
11 court may advise appropriate juvenile authorities and may
12 refer violations of section 123.47 to the juvenile court when
13 there is reason to believe the child regularly abuses alcohol
14 and may be in need of treatment. The court shall notify the
15 parents or legal guardians of a child who appears before it
16 for a violation of section 123.47. A child convicted of a
17 violation excluded from the jurisdiction of the juvenile court
18 under this paragraph shall be sentenced pursuant to section
19 805.8, where applicable, and pursuant to section 903.1,
20 subsection 3, for all other violations.

21 Sec. 2. Section 232.22, subsection 2, paragraph c, Code
22 Supplement 1987, is amended to read as follows:

23 c. A room in a facility intended or used for the detention
24 of adults if there is probable cause to believe that the child
25 has committed a delinquent act which if committed by an adult
26 would be a felony, a serious or aggravated misdemeanor
27 pursuant to chapter 708, or a violation of section 123.45, and
28 if all of the following apply:

- 29 (1) The child is at least ~~sixteen~~ fourteen years of age.
- 30 (2) The child has shown by the child's conduct, habits, or
31 condition that the child constitutes an immediate and serious
32 danger to another or to the property of another, and a
33 facility or place enumerated in paragraph "a" or "b" is
34 unavailable, or the court determines that the child's conduct
35 or condition endangers the safety of others in the facility.

1 (3) The facility has an adequate staff to supervise and
2 monitor the child's activities at all times.

3 (4) The child is confined in a room entirely separated
4 from detained adults, is confined in a manner which prohibits
5 communication with detained adults, and is permitted to use
6 common areas of the facility only when no contact with
7 detained adults is possible.

8 However, if the child is to be detained for a violation of
9 section 123.46, placement in a facility pursuant to this
10 paragraph shall be made only after an attempt has been made to
11 notify the parents or legal guardians of the child and request
12 that the parents or legal guardians take custody of the child.
13 If the parents or legal guardians cannot be contacted, or
14 refuse to take custody of the child, an attempt shall be made
15 to place the child in another facility, including but not
16 limited to a local hospital or shelter care facility, and only
17 after a medical evaluation is completed by a health care
18 professional trained and licensed to diagnose and treat sub-
19 stance abuse patients. Also, a child detained for a violation
20 of section 123.46 pursuant to this paragraph shall only be
21 detained in a facility with adequate staff to provide
22 continuous visual supervision of the child.

23 Sec. 3. Section 232.22, subsection 4, Code Supplement
24 1987, is amended to read as follows:

25 4. A child shall not be detained in a facility under
26 subsection 2, paragraph "c" for a period of time in excess of
27 six hours without the oral or written order of a judge or a
28 magistrate authorizing the detention. A judge or magistrate
29 may authorize detention in a facility under subsection 2,
30 paragraph "c" for a period of time in excess of six hours but
31 less than twenty-four hours, excluding weekends and legal
32 holidays, but only if all of the following occur or exist:

33 a. The facility serves a geographic area outside a
34 standard metropolitan statistical area as determined by the
35 United States census bureau.

1 b. The court determines that an acceptable alternative
2 placement does not exist pursuant to criteria developed by the
3 department of human services.

4 c. The facility has been certified by the department of
5 corrections as being capable of sight and sound separation
6 pursuant to this section and 356.3.

7 d. The child is awaiting an initial hearing before the
8 court pursuant to section 232.44.

9 Except for paragraph "c" of this subsection, the
10 restrictions contained in this subsection relating to the
11 detention of a child in a facility under subsection 2,
12 paragraph "c" do not apply if the court has waived its
13 jurisdiction over the child for the alleged commission of a
14 felony offense pursuant to section 232.45.

15 Sec. 4. Section 805.1, subsection 8, Code Supplement 1987,
16 is amended by striking the subsection.

17 Sec. 5. NEW SECTION. 805.16 CITATIONS TO PERSONS UNDER
18 EIGHTEEN YEARS OF AGE.

19 1. A peace officer shall issue a police citation or
20 uniform citation and complaint, in lieu of making a
21 warrantless arrest, to a person under eighteen years of age
22 accused of committing a simple misdemeanor under chapter 106,
23 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section
24 123.47, or a local ordinance not subject to the jurisdiction
25 of the juvenile court, and shall not detain or confine the
26 person in a facility regulated under chapter 356 or 356A.

27 2. This section does not apply to a person who refuses to
28 sign the citation without qualification, who persists in
29 engaging in the conduct for which the citation was issued, who
30 refuses to provide proper identification or to identify the
31 person's self, or who constitutes an immediate threat to the
32 person's own safety or the safety of the public.

33 3. For purposes of this section, a person is not detained
34 or confined in a facility if the person is physically
35 accompanied by a peace officer, is not placed in a detention

1 area, and is present in the facility to await transportation,
2 for booking, for implied consent testing, or for other
3 administrative purposes.

4 4. This section does not prohibit the execution of an
5 arrest warrant.

6 Sec. 6. Section 903.1, subsection 1, unnumbered paragraph
7 1, Code Supplement 1987, is amended to read as follows:

8 When a person ~~eighteen-years-of-age-or-older~~ is convicted
9 of a simple or serious misdemeanor and a specific penalty is
10 not provided for, the court shall determine the sentence, and
11 shall fix the period of confinement or the amount of fine, if
12 such be the sentence, within the following limits:

13 Sec. 7. Section 903.1, subsection 3, unnumbered paragraph
14 1, Code Supplement 1987, is amended to read as follows:

15 A person under eighteen years of age convicted of a simple
16 misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A,
17 110B, 111, 321, or 321G, section 123.47, or a violation of a
18 county or municipal curfew or traffic ordinance, except for an
19 offense subject to section 805.8, may be required to pay a
20 fine, not to exceed one hundred dollars, as fixed by the
21 court, or may be required to perform community service as
22 ordered by the court.

23

EXPLANATION

24 Sections 1 and 4 through 7 of this bill provide that a
25 peace officer shall issue a citation to a juvenile accused of
26 committing a simple misdemeanor in lieu of making a
27 warrantless arrest, unless the person refuses to sign the
28 citation, persists in engaging in the conduct for which the
29 citation is issued, refuses to provide proper identification,
30 or constitutes an immediate threat to the person's self or the
31 public. A juvenile may be taken by a peace officer to a jail
32 facility to await transportation, for booking, for implied
33 consent testing, or for other administrative purposes provided
34 that the juvenile is always accompanied by an officer and is
35 not placed in a detention area. The bill provides sentencing

1 procedures for juveniles bound over to district court on
2 simple or serious misdemeanors.

3 Section 2 lowers the age, from sixteen to fourteen, at
4 which a juvenile may be held in a facility intended or used
5 for the detention of adults. To detain such a juvenile in an
6 adult facility, probable cause must exist to believe that the
7 juvenile has committed an act which if committed by an adult
8 would be a felony, a serious or aggravated misdemeanor, or a
9 violation of section 123.46. For a violation of section
10 123.46, additional restrictions apply.

11 Section 3 provides that the time restrictions for detention
12 of a juvenile in an adult facility do not apply to a juvenile
13 waived to adult court for a felony offense.

14 SUCCESSOR TO LSB 8179HC

15

HOUSE FILE 2278

H-5441

1 Amend amendment H-5420 to House File 2278 as
2 follows:

3 1. Page 1, by striking line 29 and inserting the
4 following: "individual arrested who is eighteen years
5 of age or older and who is".

H-5441 FILED MARCH 10, 1988

Original 3/10 (p. 101)

BY HANSEN of Woodbury
ROSENBERG of Story

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HOUSE FILE 2278

H-5281

1 Amend House File 2278 as follows:

2 1. Page 1, by striking lines 26 and 27 and
3 inserting the following: "would be a felony, a
4 serious or aggravated misdemeanor, a violation of
5 section 708.2, subsection 3, or a violation of section
6 123.46, and".

7 2. Page 3, line 32, by inserting after the word
8 "public" the following: ", and that person may be
9 confined in a facility regulated under chapter 356 or
10 356A if all of the following apply:

11 a. The person is at least fourteen years of age.

12 b. The facility has an adequate staff to supervise
13 and monitor the person's activities at all times.

14 c. The person is confined in a room physically
15 separated from detained adults, and is permitted to
16 use common areas of the facility only when no contact
17 with detained adults is possible.

18 d. The person is confined no longer than six
19 hours".

20 3. Page 4, line 5, by inserting after the word
21 "warrant" the following: "and the person arrested
22 under the warrant may be confined in a facility
23 regulated under chapter 356 or 356A if all of the
24 following apply:

25 a. The person is at least fourteen years of age.

26 b. The facility has an adequate staff to supervise
27 and monitor the person's activities at all times.

28 c. The person is confined in a room physically
29 separated from detained adults, and is permitted to
30 use common areas of the facility only when no contact
31 with detained adults is possible.

32 d. The person is confined no longer than six
33 hours".

BY BISIGNANO of Polk

CONNORS of Polk

SHERZAN of Polk

H-5281 FILED MARCH 3, 1988

*Adopted as amended by 5/25/88 (p. 700)
Motion to suspend 3/11/88 5:28 PM
Signed by 3/11/88 (p. 10-15)*

HOUSE FILE 2278

H-5388

1 Amend amendment H-5281, to House File 2278 as
2 follows:

3 1. Page 1, line 19, by inserting after the word
4 "hours" the following: "and only for the purpose of
5 identification, processing, and transfer, and in no
6 case shall the person be confined overnight".

7 2. Page 1, line 33, by inserting after the word
8 "hours" the following: "and only for the purpose of
9 identification, processing, and transfer, and in no
10 case shall the person be confined overnight".

H-5388 FILED MARCH 9, 1988 BY FEY of Scott

w/dt 3/10 (p. 700)

H-5216

1 Amend House File 2278 as follows:

2 1. Page 1, line 29, by striking the word
3 "fourteen" and inserting the following: "fourteen".

4 2. Page 2, by striking lines 16 through 19 and
5 inserting the following: "limited to a local hospital
6 or shelter care facility. Also, a child detained for
7 a violation".

8 3. Page 3, by inserting after line 14 the fol-
9 lowing:

10 "Sec. ____ . Section 232.22, subsection 5, Code
11 1987, is amended to read as follows:

12 5. An adult within the jurisdiction of the court
13 under section 232.8, subsection 1, who has been placed
14 in detention, is not bailable under chapter 811. ~~ff~~
15 such-an An adult is detained after attaining age
16 eighteen shall be detained in a room in a facility
17 intended or used for the detention of adults, the
18 adult and shall be confined in a room entirely
19 physically separated from adults not within the
20 jurisdiction of the court under section 232.8,
21 subsection 1."

22 4. Renumber as necessary.

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

H-5216 FILED MARCH 1, 1988

A. Adopted, B.W.L. s/m (p. 677)

HOUSE FILE 2278

1-5420

1 Amend House File 2278 as follows:

2 1. Page 1, by striking lines 1 through 3 and
3 inserting the following:

4 "Section 1. Section 232.8, subsection 1, Code
5 Supplement 1987, is amended to read as follows:

6 1. The juvenile court has exclusive original
7 jurisdiction in proceedings concerning a child who is
8 alleged to have committed a delinquent act unless
9 otherwise provided by law, and has exclusive original
10 jurisdiction in proceedings concerning an adult who is
11 alleged to have committed a delinquent act prior to
12 having become an adult, ~~provided that the taking of~~
13 ~~that person into custody for the alleged act or the~~
14 ~~filing of a delinquency petition alleging the~~
15 ~~commission of the act occurs within the time periods~~
16 ~~and under the conditions specified in chapter 802.~~
17 ~~The juvenile court has jurisdiction over such an~~
18 ~~adult for one year beyond the last date upon which~~
19 ~~jurisdiction over the adult attaches under this~~
20 ~~subsection and who has been transferred to the~~
21 jurisdiction of the juvenile court pursuant to an
22 order under section 803.5."

23 2. Page 3, by inserting after line 14 the
24 following:

25 "Sec. ____ . Section 803.1, Code 1987, is amended by
26 adding the following new subsection:

27 NEW SUBSECTION. 4. The jurisdiction of the
28 criminal court includes the prosecution of any
29 individual eighteen years of age or older who is
30 charged with committing a criminal offense. If the
31 individual is alleged to have committed the offense
32 prior to having reached the age of eighteen, that
33 individual or the county attorney may petition the
34 criminal court to transfer the matter to juvenile
35 court, pursuant to section 803.5.

36 Sec. ____ . NEW SECTION. 803.5 TRANSFER OF
37 JURISDICTION.

38 1. An adult who is alleged to have committed a
39 criminal offense prior to having reached the age of
40 eighteen may be transferred to juvenile court for
41 adjudication and disposition as a juvenile, provided
42 that the taking of that person into custody for the
43 alleged act or the filing of a complaint, information,
44 or indictment alleging the act, occurs within the time
45 periods and under the conditions specified in chapter
46 802.

47 2. The defendant or the county attorney may file a
48 motion for the transfer any time within ten days of
49 the initial appearance.

50 3. The court shall hold a transfer hearing on all

1 such motions. A notice of the time and place of the
2 transfer hearing shall be given to all parties to the
3 hearing.

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

17 5. After the hearing, the court may transfer
18 jurisdiction to the juvenile court if the court
19 determines that there is probable cause to believe
20 that the adult committed an offense while still a
21 juvenile, and waiver to the criminal court would be
22 inappropriate under the criteria set forth in section
23 232.45, subsection 6, paragraph "c", and section
24 232.45, subsection 7, if the adult were still a child.

25 6. If after the hearing the court transfers
26 jurisdiction over the adult to the juvenile court for
27 the alleged commission of the public offense to the
28 juvenile court, the court shall forward the transfer
29 order together with all papers, documents, and a
30 transcript of all testimony filed or admitted into
31 evidence in connection with the case to the clerk of
32 the juvenile court in the same manner as provided in
33 section 232.8, subsection 2."

34 3. By renumbering as necessary.

H-5420 FILED MARCH 9, 1988 BY HANSEN of Woodbury

*Revised and adopted 3/10/88 (H-5420)
Adopted by the House on 3/10/88, 54418 Adopted (H-5420)*

HOUSE FILE 2278

H-5425

1 Amend amendment H-5281, to House File 2278 as
2 follows:

3 1. Page 1, line 19, by inserting after the word
4 "hours" the following: "and only for the purpose of
5 identification, processing, and transfer".

6 2. Page 1, line 33, by inserting after the word
7 "hours" the following: "and only for the purpose of
8 identification, processing, and transfer".

H-5425 FILED MARCH 9, 1988 BY FEY of Scott

*Adopted 3/10/88 (H-5425)
Print out of order with adoption of H-5420
3/10/88*

H-5851

1 Amend amendment H-5840 to House File 2278, as
2 follows:

3 1. Page 1, line 27, by inserting after the figure
4 "3." the following: "In addition, or alternatively,
5 the peace officer may require that person to surrender
6 the person's motor vehicle operator's license until
7 the time of the person's initial court appearance.
8 The peace officer shall immediately send the person's
9 operator's license along with a copy of the unsigned
10 citation indicating the juvenile's refusal to sign to
11 the clerk of the district court for the district in
12 which the peace officer issued the citation."

By SHERZAN of Polk

H-5851 FILED MARCH 23, 1988

Adopted 3/24 (p. 1045)

HOUSE FILE 2278

H-5840

1 Amend House File 2278 as follows:

2 1. Page 1, by striking lines 26 and 27 and
3 inserting the following: "would be a felony, an
4 aggravated misdemeanor, a serious misdemeanor under
5 section 321J.2, subsection 2, section 708.2,
6 subsection 2, section 709.9, section 710.7, or section
7 204.401 involving a controlled substance classified in
8 schedule IV, or a violation of section 123.46, and".

9 2. Page 2, line 9, by inserting after the figure
10 "123.46," the following: "section 321J.2, subsection
11 2, or section 709.9".

12 3. Page 2, line 20, by inserting after the figure
13 "123.46" the following: ", section 321J.2, subsection
14 2, or section 709.9".

15 4. Page 3, by striking line 19 and inserting the
16 following:

17 "1. Except as provided in subsection 2 of this
18 section, a peace officer shall issue a police citation
19 or".

20 5. Page 3, by striking line 27 and inserting the
21 following:

22 "2. A person under the age of eighteen who refuses
23 to".

24 6. By striking page 3, line 32, through page 4,
25 line 5, and inserting the following: "person's own
26 safety or the safety of the public may be arrested in
27 the manner provided in subsection 3.

28 3. A person arrested pursuant to subsection 2
29 shall only be arrested for the limited purpose of
30 holding the person in nonsecure custody in an area not
31 intended for secure detention while awaiting transfer
32 to an appropriate juvenile facility or to court, for
33 booking, for implied consent testing, for contacting
34 and release to the person's parents, or for other
35 administrative purposes.

36 For purposes of this subsection, "nonsecure
37 custody" means custody in an unlocked multipurpose
38 area, such as a lobby, office, or interrogation room
39 which is not designed, set aside, or used as a secure
40 detention area, and the person arrested is not
41 physically secured during the period of custody in the
42 area, the person is physically accompanied by a peace
43 officer or a person employed by the facility where the
44 person arrested is being held, and the use of the area
45 is limited to providing nonsecure custody only long
46 enough for the purposes stated in the preceding
47 paragraph and not for a period of time in excess of
48 six hours without the oral or written order of a judge
49 or magistrate authorizing the detention. A judge
50 shall not extend the period of time in excess of six

Page 2

1 hours beyond the initial six-hour period.

2 4. This section does not prohibit the execution of
3 an arrest warrant by a peace officer."

By FEY of Scott
BISIGNANO of Polk
HANSEN of Woodbury

ROSENBERG of Story
SHERZAN of Polk

H-5840 FILED MARCH 23, 1988

(Digitized and numbered by 5851 3/24/88)

HOUSE FILE 2278
BY COMMITTEE ON HUMAN RESOURCES

(As Amended and Passed by the House March 24, 1988)

Substituted for SF 2252

Passed House, Date 4/12/88 (p. 1804) Passed Senate, Date 4/11/88 (p. 1412)
Vote: Ayes 97 Nays 1 Vote: Ayes 47 Nays 0
Approved May 5, 1988

A BILL FOR

1 An Act relating to the issuance of citations to juveniles, the
2 detention of juveniles and restrictions on the detention of
3 juveniles in adult facilities, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

House Amendments _____

Conference Committee Appointed 4/14/88

Representatives Fay (Chair), Besignans, Jay, Clark, Blasius (p. 1909)
Senators Mann (Chair), Doyle, Frazer, Hester, Beatonson (p. 1563)

Passed per Conference Committee Report

House 4/14/88 (p. 1959) Senate 4/14/88 (p. 1412)
96-0 40-0

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1 Section 1. Section 232.8, subsection 1, Code Supplement
2 1987, is amended to read as follows:

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

13 The juvenile court has jurisdiction over such an adult for
14 one year beyond the last date upon which jurisdiction over the
15 adult attaches under this subsection and who has been
16 transferred to the jurisdiction of the juvenile court pursuant
17 to an order under section 803.5.

18 Violations by a child of provisions of chapter 106, 106A,
19 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be
20 simple misdemeanors if committed by an adult, and violations
21 of county or municipal curfew or traffic ordinances, and
22 violations by a child of the provisions of section 123.47, are
23 excluded from the jurisdiction of the juvenile court and shall
24 be prosecuted as simple misdemeanors as provided by law. The
25 court may advise appropriate juvenile authorities and may
26 refer violations of section 123.47 to the juvenile court when
27 there is reason to believe the child regularly abuses alcohol
28 and may be in need of treatment. The court shall notify the
29 parents or legal guardians of a child who appears before it
30 for a violation of section 123.47. A child convicted of a
31 violation excluded from the jurisdiction of the juvenile court
32 under this paragraph shall be sentenced pursuant to section
33 805.8, where applicable, and pursuant to section 903.1,
34 subsection 3, for all other violations.

35 Sec. 2. Section 232.22, subsection 2, paragraph c, Code

1 Supplement 1987, is amended to read as follows:

2 c. A room in a facility intended or used for the detention
3 of adults if there is probable cause to believe that the child
4 has committed a delinquent act which if committed by an adult
5 would be a felony, an aggravated misdemeanor, a serious
6 misdemeanor under section 321J.2, subsection 2, section 708.2,
7 subsection 2, section 709.9, section 710.7, or section 204.401
8 involving a controlled substance classified in schedule IV, or
9 a violation of section 123.46, and if all of the following
10 apply:

11 (1) The child is at least ~~sixteen~~ fourteen years of age.

12 (2) The child has shown by the child's conduct, habits, or
13 condition that the child constitutes an immediate and serious
14 danger to another or to the property of another, and a
15 facility or place enumerated in paragraph "a" or "b" is
16 unavailable, or the court determines that the child's conduct
17 or condition endangers the safety of others in the facility.

18 (3) The facility has an adequate staff to supervise and
19 monitor the child's activities at all times.

20 (4) The child is confined in a room entirely separated
21 from detained adults, is confined in a manner which prohibits
22 communication with detained adults, and is permitted to use
23 common areas of the facility only when no contact with
24 detained adults is possible.

25 However, if the child is to be detained for a violation of
26 section 123.46, section 321J.2, subsection 2, or section 709.9
27 placement in a facility pursuant to this paragraph shall be
28 made only after an attempt has been made to notify the parents
29 or legal guardians of the child and request that the parents
30 or legal guardians take custody of the child. If the parents
31 or legal guardians cannot be contacted, or refuse to take
32 custody of the child, an attempt shall be made to place the
33 child in another facility, including but not limited to a
34 local hospital or shelter care facility. Also, a child
35 detained for a violation of section 123.46, section 321J.2,

1 subsection 2, or section 709.9 pursuant to this paragraph
2 shall only be detained in a facility with adequate staff to
3 provide continuous visual supervision of the child.

4 Sec. 3. Section 232.22, subsection 4, Code Supplement
5 1987, is amended to read as follows:

6 4. A child shall not be detained in a facility under
7 subsection 2, paragraph "c" for a period of time in excess of
8 six hours without the oral or written order of a judge or a
9 magistrate authorizing the detention. A judge or magistrate
10 may authorize detention in a facility under subsection 2,
11 paragraph "c" for a period of time in excess of six hours but
12 less than twenty-four hours, excluding weekends and legal
13 holidays, but only if all of the following occur or exist:

14 a. The facility serves a geographic area outside a
15 standard metropolitan statistical area as determined by the
16 United States census bureau.

17 b. The court determines that an acceptable alternative
18 placement does not exist pursuant to criteria developed by the
19 department of human services.

20 c. The facility has been certified by the department of
21 corrections as being capable of sight and sound separation
22 pursuant to this section and 356.3.

23 d. The child is awaiting an initial hearing before the
24 court pursuant to section 232.44.

25 Except for paragraph "c" of this subsection, the
26 restrictions contained in this subsection relating to the
27 detention of a child in a facility under subsection 2,
28 paragraph "c" do not apply if the court has waived its
29 jurisdiction over the child for the alleged commission of a
30 felony offense pursuant to section 232.45.

31 Sec. 4. Section 803.1, Code 1987, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 4. The jurisdiction of the criminal court
34 includes the prosecution of any individual arrested who is
35 eighteen years of age or older and who is charged with

1 committing a criminal offense. If the individual is alleged
2 to have committed the offense prior to having reached the age
3 of eighteen, that individual or the county attorney may
4 petition the criminal court to transfer the matter to juvenile
5 court, pursuant to section 803.5.

6 Sec. 5. NEW SECTION. 803.5 TRANSFER OF JURISDICTION.

7 1. An adult who is alleged to have committed a criminal
8 offense prior to having reached the age of eighteen may be
9 transferred to juvenile court for adjudication and disposition
10 as a juvenile, provided that the taking of that person into
11 custody for the alleged act or the filing of a complaint,
12 information, or indictment alleging the act, occurs within the
13 time periods and under the conditions specified in chapter
14 802.

15 2. The defendant or the county attorney may file a motion
16 for the transfer any time within ten days of the initial
17 appearance.

18 3. The court shall hold a transfer hearing on all such
19 motions. A notice of the time and place of the transfer
20 hearing shall be given to all parties to the hearing.

21 4. Prior to the transfer hearing, the juvenile probation
22 officer, or other person or agency designated by the court,
23 shall conduct an investigation for the purpose of collecting
24 information relevant to the court's decision to waive its
25 jurisdiction over the defendant for the alleged commission of
26 the public offense and shall submit a report concerning the
27 investigation to the court. The report shall include any
28 recommendations made concerning transfer. Prior to the
29 hearing the court shall provide the defendant's counsel and
30 the county attorney with access to the report and to all
31 written material to be considered by the court.

32 5. After the hearing, the court may transfer jurisdiction
33 to the juvenile court if the court determines that there is
34 probable cause to believe that the adult committed an offense
35 while still a juvenile, and waiver to the criminal court would

1 be inappropriate under the criteria set forth in section
2 232.45, subsection 6, paragraph "c", and section 232.45,
3 subsection 7, if the adult were still a child.

4 6. If after the hearing the court transfers jurisdiction
5 over the adult to the juvenile court for the alleged
6 commission of the public offense to the juvenile court, the
7 court shall forward the transfer order together with all
8 papers, documents, and a transcript of all testimony filed or
9 admitted into evidence in connection with the case to the
10 clerk of the juvenile court in the same manner as provided in
11 section 232.8, subsection 2.

12 Sec. 6. Section 805.1, subsection 8, Code Supplement 1987,
13 is amended by striking the subsection.

14 Sec. 7. NEW SECTION. 805.16 CITATIONS TO PERSONS UNDER
15 EIGHTEEN YEARS OF AGE.

16 1. Except as provided in subsection 2 of this section, a
17 peace officer shall issue a police citation or uniform
18 citation and complaint, in lieu of making a warrantless
19 arrest, to a person under eighteen years of age accused of
20 committing a simple misdemeanor under chapter 106, 106A, 109,
21 109A, 110, 110A, 110B, 111, 321, or 321G, section 123.47, or a
22 local ordinance not subject to the jurisdiction of the
23 juvenile court, and shall not detain or confine the person in
24 a facility regulated under chapter 356 or 356A.

25 2. A person under the age of eighteen who refuses to sign
26 the citation without qualification, who persists in engaging
27 in the conduct for which the citation was issued, who refuses
28 to provide proper identification or to identify the person's
29 self, or who constitutes an immediate threat to the person's
30 own safety or the safety of the public may be arrested in the
31 manner provided in subsection 3. In addition, or
32 alternatively, the peace officer may require that person to
33 surrender the person's motor vehicle operator's license until
34 the time of the person's initial court appearance. The peace
35 officer shall immediately send the person's operator's license

1 along with a copy of the unsigned citation indicating the
2 juvenile's refusal to sign to the clerk of the district court
3 for the district in which the peace officer issued the
4 citation.

5 3. A person arrested pursuant to subsection 2 shall only
6 be arrested for the limited purpose of holding the person in
7 nonsecure custody in an area not intended for secure detention
8 while awaiting transfer to an appropriate juvenile facility or
9 to court, for booking, for implied consent testing, for
10 contacting and release to the person's parents, or for other
11 administrative purposes.

12 For purposes of this subsection, "nonsecure custody" means
13 custody in an unlocked multipurpose area, such as a lobby,
14 office, or interrogation room which is not designed, set
15 aside, or used as a secure detention area, and the person
16 arrested is not physically secured during the period of
17 custody in the area, the person is physically accompanied by a
18 peace officer or a person employed by the facility where the
19 person arrested is being held, and the use of the area is
20 limited to providing nonsecure custody only long enough for
21 the purposes stated in the preceding paragraph and not for a
22 period of time in excess of six hours without the oral or
23 written order of a judge or magistrate authorizing the
24 detention. A judge shall not extend the period of time in
25 excess of six hours beyond the initial six-hour period.

26 4. This section does not prohibit the execution of an
27 arrest warrant by a peace officer.

28 Sec. 8. Section 903.1, subsection 1, unnumbered paragraph
29 1, Code Supplement 1987, is amended to read as follows:

30 When a person ~~eighteen-years-of-age-or-older~~ is convicted
31 of a simple or serious misdemeanor and a specific penalty is
32 not provided for, the court shall determine the sentence, and
33 shall fix the period of confinement or the amount of fine, if
34 such be the sentence, within the following limits:

35 Sec. 9. Section 903.1, subsection 3, unnumbered paragraph

1 1, Code Supplement 1987, is amended to read as follows:

2 A person under eighteen years of age convicted of a simple
3 misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A,
4 110B, 111, 321, or 321G, section 123.47, or a violation of a
5 county or municipal curfew or traffic ordinance, except for an
6 offense subject to section 805.8, may be required to pay a
7 fine, not to exceed one hundred dollars, as fixed by the
8 court, or may be required to perform community service as
9 ordered by the court.

10 SUCCESSOR TO LSB 8179HC

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HOUSE FILE 2278

S-5776

1 Amend House File 2278, as amended, passed, and re-
2 printed by the House, as follows:
3 1. Page 6, by striking lines 30 through 32 and
4 inserting the following:
5 "When If a person eighteen years of age or older is
6 convicted of a simple or serious misdemeanor and a
7 specific penalty is not provided for or if a person
8 under eighteen years of age has been waived to adult
9 court pursuant to section 232.45 on a felony charge
10 and is subsequently convicted of a simple, serious, or
11 aggravated misdemeanor, the court shall determine the
12 sentence, and".

S-5776

Filed April 5, 1988
(Adopted 4/11/88)

BY JACK HESTER

HOUSE FILE 2278

S-5813

1 Amend House File 2278, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 3, by striking line 25 and inserting the
4 following:
5 "The".

S-5813

Filed April 6, 1988
(Adopted 4/11/88)

BY JULIA GENTILEMAN

HOUSE FILE 2278

S-5823

1 Amend House 2278, as amended, passed, and reprinted
2 by the House, as follows:
3 1. By striking page 1, line 35 through page 3,
4 line 3.

S-5823

Filed April 6, 1988
(S. Bill 2010 4/11/88)

BY DONALD V. DOYLE
TOM MANN, Jr.

HOUSE FILE 2278

S-5807

1 Amend House File 2278, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 4, line 14, by inserting after the figure
4 "802" the following: "and further provided that the
5 juvenile court has not already waived its jurisdiction
6 over the person and the alleged offense".

S-5807

Filed April 6, 1988
(Adopted 4/11/88)

BY JACK HESTER

HOUSE FILE 2278

S-5903

1 Amend House File 2278 as amended, passed and
2 reprinted by the House as follows:
3 1. By striking page 1, line 35 through page 3,
4 line 3 and inserting the following:
5 "Sec. 2. Section 232.22, subsection 2, paragraph
6 c, subparagraph (1), Code Supplement 1987, is amended
7 to read as follows:
8 (1) The child is at least ~~sixteen~~ fourteen years
9 of age."

S-5903

Filed April 11, 1988

ADOPTED

(D. 1412)

BY DONALD V. DOYLE
JULIA GENTLEMAN

HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 2278

S-5981

- 1 Amend the Senate amendment, H-6375, to House File
- 2 2278, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 1, by striking lines 3 through 12.
- 5 2. Renumber as necessary.

S-5981

Filed April 13, 1988

RECEIVED FROM THE HOUSE

Senate refused to concur 4/16 (p. 1538)
House insisted 4/14 (p. 1909)

SENATE AMENDMENT TO HOUSE FILE 2278

H-6375

1 Amend House File 2278 as amended, passed and
2 reprinted by the House as follows:

3 1. By striking page 1, line 35 through page 3,
4 line 3 and inserting the following:

5 "Sec. 2. Section 232.22, subsection 2, paragraph
6 c, subparagraph (1), Code Supplement 1987, is amended
7 to read as follows:

8 (1) The child is at least ~~sixteen~~ fourteen years
9 of age."

10 2. Page 3, by striking line 25 and inserting the
11 following:

12 "The".

13 3. Page 4, line 14, by inserting after the figure
14 "802" the following: "and further provided that the
15 juvenile court has not already waived its jurisdiction
16 over the person and the alleged offense".

17 4. Page 6, by striking lines 30 through 32 and
18 inserting the following:

19 "When if a person eighteen years of age or older is
20 convicted of a simple or serious misdemeanor and a
21 specific penalty is not provided for or if a person
22 under eighteen years of age has been waived to adult
23 court pursuant to section 232.45 on a felony charge
24 and is subsequently convicted of a simple, serious, or
25 aggravated misdemeanor, the court shall determine the
26 sentence, and".

27 5. By renumbering, relettering, or redesignating
28 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6375 FILED APRIL 11, 1988

*House amended (6410) & concurred
4/12 (p. 1804)*

HOUSE FILE 2278

H-6410

1 Amend the Senate amendment, H-6375, to House File
2 2278, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by striking lines 3 through 12.

5 2. Renumber as necessary.

By FEY of Scott

H-6410 FILED APRIL 12, 1988

ADOPTED *4/12/88*

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2278

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 2278, a bill for An Act relating to the issuance of citations to juveniles, the detention of juveniles and restrictions on the detention of juveniles in adult facilities, and providing penalties, respectfully make the following report:

1. That the House recedes from its amendment, S-5981.
2. That the Senate recedes from its amendment, H-6375.
3. That House File 2278, as amended, passed, and reprinted by the House, is amended as follows:

1. Page 2, by striking lines 5 through 9 and inserting the following: "would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following".

2. Page 2, by striking line 26 and inserting the following: "section 123.46 or section 321J.2,".

3. By striking page 2, line 35 through page 3, line 1 and inserting the following: "detained for a violation of section 123.46 or section 321J.2 pursuant to this paragraph".

4. Page 3, by striking line 25 and inserting the following:

"The".

5. Page 4, line 14, by inserting after the figure "802" the following: "and further provided that the juvenile court has not already waived its jurisdiction over the person and the alleged offense".

6. Page 6, by striking lines 30 through 32 and inserting

the following:

"~~When~~ If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and".

7. By renumbering, relettering, or redesignating and correcting internal references as necessary.

ON THE PART OF THE HOUSE:

TOM FEY, Chairperson
TONY BISIGNANO
BETTY JEAN CLARK
DAN JAY
LEE PLASIER

House adopted 4/14 (p. 1959)

ON THE PART OF THE SENATE:

TOM MANN, Jr., Chairperson
DONALD V. DOYLE
EUGENE FRAISE
JULIA GENTLEMAN
JACK HESTER

Senate adopted 4/14 (p. 1609)

Law Chair

HSB 555

House Study Bill 555

HUMAN RESOURCES

Human Resources: Fey, Chair; Adams, Bisignano, Clark and Plasier.

7/10/72

*Address
Clark
Plasier*

HOUSE FILE *2278*

BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the issuance of citations and the detention of
2 juveniles, and providing penalties.

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

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1 Section 1. NEW SECTION. 805.16 CITATIONS TO PERSONS
2 UNDER EIGHTEEN YEARS OF AGE.

3 1. A peace officer shall issue a police citation or
4 uniform citation and complaint, in lieu of making a
5 warrantless arrest, to a person under eighteen years of age
6 accused of committing a simple misdemeanor under chapter 106,
7 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section
8 123.47, or a local ordinance not subject to the jurisdiction
9 of the juvenile court, and shall not detain or confine the
10 person in a facility regulated under chapter 356 or 356A.

11 2. This section does not apply to a person who refuses to
12 sign the citation without qualification, who persists in
13 engaging in the conduct for which the citation was issued, or
14 who constitutes an immediate threat to the person's own safety
15 or the safety of the public.

16 3. For purposes of this section, a person is not detained
17 or confined in a facility if the person is physically
18 accompanied by a peace officer, is not placed in a detention
19 area, and is present in the facility to await transportation,
20 for booking, for implied consent testing, or for other
21 administrative purposes.

22 4. Nothing in this section prohibits the execution of an
23 arrest warrant.

24 Sec. 2. Section 232.8, subsection 1, unnumbered paragraph
25 3, Code Supplement 1987, is amended to read as follows:

26 Violations by a child of provisions of chapter 106, 106A,
27 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be
28 simple misdemeanors if committed by an adult, and violations
29 of county or municipal curfew or traffic ordinances, and
30 violations by a child of the provisions of section 123.47, are
31 excluded from the jurisdiction of the juvenile court and shall
32 be prosecuted as simple misdemeanors as provided by law. The
33 court may advise appropriate juvenile authorities and may
34 refer violations of section 123.47 to the juvenile court when
35 there is reason to believe the child regularly abuses alcohol

1 and may be in need of treatment. The court shall notify the
2 parents or legal guardians of a child who appears before it
3 for a violation of section 123.47. A child convicted of a
4 violation excluded from the jurisdiction of the juvenile court
5 under this paragraph shall be sentenced pursuant to section
6 805.8, where applicable, and pursuant to section 903.1,
7 subsection 3, for all other violations.

8 Sec. 3. Section 805.1, subsection 8, Code Supplement 1987,
9 is amended by striking the subsection.

10 Sec. 4. Section 903.1, subsection 1, unnumbered paragraph
11 1, Code Supplement 1987, is amended to read as follows:

12 When a person ~~eighteen-years-of-age-or-older~~ is convicted
13 of a simple or serious misdemeanor and a specific penalty is
14 not provided for, the court shall determine the sentence, and
15 shall fix the period of confinement or the amount of fine, if
16 such be the sentence, within the following limits:

17 Sec. 5. Section 903.1, subsection 3, unnumbered paragraph
18 1, Code Supplement 1987, is amended to read as follows:

19 A person under eighteen years of age convicted of a simple
20 misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A,
21 110B, 111, 321, or 321G, section 123.47, or a violation of a
22 county or municipal curfew or traffic ordinance, except for an
23 offense subject to section 805.8, may be required to pay a
24 fine, not to exceed one hundred dollars, as fixed by the
25 court, or may be required to perform community service as
26 ordered by the court.

27 EXPLANATION

28 This bill provides that a peace officer shall issue a
29 citation to a juvenile accused of committing a simple
30 misdemeanor in lieu of making a warrantless arrest, unless the
31 person refuses to sign the citation, persists in engaging in
32 the conduct for which the citation is issued, or constitutes
33 an immediate threat to the person's self or the public. A
34 juvenile may be taken by a peace officer to a jail facility to
35 await transportation, for booking, for implied consent

1 testing, or for other administrative purposes provided that
2 the juvenile is always accompanied by an officer and is not
3 placed in a detention area. The bill provides sentencing
4 procedures for juveniles bound over to district court on
5 simple or serious misdemeanors.

6 BACKGROUND STATEMENT

7 SUBMITTED BY THE AGENCY

8 This bill would modify several changes which were made in
9 the processing of juveniles by law enforcement officers in
10 Senate File 522, which passed in 1987. It is intended to
11 address several problems which have arisen with the changes
12 made in Senate File 522:

13 1. The previous ability of peace officers to issue a
14 uniform citation and complaint to a juvenile accused of a
15 traffic or other minor offense in the same fashion as is
16 allowed with an adult accused of these same offenses would be
17 restored by language contained in section 1 of this bill.
18 Senate File 522 removed traffic and other minor offenses
19 committed by juveniles from the list of scheduled fines,
20 imposing instead an indeterminate fine or community service to
21 be judicially determined. The practical effect is to require
22 an actual court appearance in each case.

23 2. The ability of a peace officer to arrest a juvenile
24 cited for a traffic or other minor offense when the juvenile
25 refuses to sign the promise to appear in court on the
26 citation, persists in the behavior which led to the citation,
27 or constitutes an immediate threat to safety is clarified by
28 the bill.

29 3. The bill clarifies the definition of detention so that
30 it would be clear that juveniles could be taken to a facility
31 containing adult prisoners for processing only, provided that
32 the juvenile would be physically accompanied by a peace
33 officer and would not be placed in a detention area, such as a
34 jail cell.

35 4. The proposal spells out that juveniles convicted of

1 minor offenses excluded from the jurisdiction of the juvenile
2 court would be treated in a manner similar to adults convicted
3 of these offenses, although juveniles would continue to be
4 excluded from being incarcerated in adult jail facilities for
5 these offenses. In particular, scheduled fines in effect for
6 adults would also apply to juveniles.

7 5. Language in the proposed bill would restore previous
8 sentencing provisions for simple and serious misdemeanor
9 offenses which carry indeterminate sentences for adults. A
10 juvenile waived to adult court on a felony or aggravated
11 misdemeanor charge may be convicted of a lesser included
12 offense at trial or may wish to plead guilty to a lesser
13 offense. Currently, a conviction on a lesser offense results
14 in no statutory penalty being applicable to the juvenile if
15 the lesser offense is a simple or serious misdemeanor.

16 6. There is language in the proposal which establishes a
17 statutory penalty for juveniles for possession of alcohol by
18 an underage person or for supplying alcohol to another
19 underage person. Penalties for juveniles engaged in either of
20 these offenses were eliminated by Senate File 522.

21 COMPANION TO LSB 7263DS

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~~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.~~

~~The juvenile court has jurisdiction over such an adult for one year beyond the last date upon which jurisdiction over the adult attaches under this subsection and who has been transferred to the jurisdiction of the juvenile court pursuant to an order under section 803.5.~~

Violations by a child of provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and 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 section 123.47 to the juvenile court when there is reason to believe the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child who appears before it for a violation of section 123.47. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

Sec. 2. Section 232.22, subsection 2, paragraph c, Code Supplement 1987, is amended to read as follows:

c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act which if committed by an adult would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following apply:

(1) The child is at least sixteen ~~fourteen~~ years of age.

HOUSE FILE 2278

AN ACT

RELATING TO THE ISSUANCE OF CITATIONS TO JUVENILES, THE DETENTION OF JUVENILES AND RESTRICTIONS ON THE DETENTION OF JUVENILES IN ADULT FACILITIES, AND PROVIDING PENALTIES.

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

Section 1. Section 232.8, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The juvenile court has exclusive original jurisdiction in proceedings concerning a child who is alleged to have committed a delinquent act unless otherwise provided by law, and 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~~

(2) The child has shown by the child's conduct, habits, or condition that the child constitutes an immediate and serious danger to another or to the property of another, and a facility or place enumerated in paragraph "a" or "b" is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility.

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

(4) The child is confined in a room entirely separated from detained adults, is confined in a manner which prohibits communication with detained adults, and is permitted to use common areas of the facility only when no contact with detained adults is possible.

However, if the child is to be detained for a violation of section 123.46 or section 321J.2, placement in a facility pursuant to this paragraph shall be made only after an attempt has been made to notify the parents or legal guardians of the child and request that the parents or legal guardians take custody of the child. If the parents or legal guardians cannot be contacted, or refuse to take custody of the child, an attempt shall be made to place the child in another facility, including but not limited to a local hospital or shelter care facility. Also, a child detained for a violation of section 123.46 or section 321J.2 pursuant to this paragraph shall only be detained in a facility with adequate staff to provide continuous visual supervision of the child.

Sec. 3. Section 232.22, subsection 4, Code Supplement 1987, is amended to read as follows:

4. A child shall not be detained in a facility under subsection 2, paragraph "c" for a period of time in excess of six hours without the oral or written order of a judge or a magistrate authorizing the detention. A judge or magistrate may authorize detention in a facility under subsection 2, paragraph "c" for a period of time in excess of six hours but less than twenty-four hours, excluding weekends and legal holidays, but only if all of the following occur or exist:

a. The facility serves a geographic area outside a standard metropolitan statistical area as determined by the United States census bureau.

b. The court determines that an acceptable alternative placement does not exist pursuant to criteria developed by the department of human services.

c. The facility has been certified by the department of corrections as being capable of sight and sound separation pursuant to this section and 356.3.

d. The child is awaiting an initial hearing before the court pursuant to section 232.44.

The restrictions contained in this subsection relating to the detention of a child in a facility under subsection 2, paragraph "c" do not apply if the court has waived its jurisdiction over the child for the alleged commission of a felony offense pursuant to section 232.45.

Sec. 4. Section 803.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The jurisdiction of the criminal court includes the prosecution of any individual arrested who is eighteen years of age or older and who is charged with committing a criminal offense. If the individual is alleged to have committed the offense prior to having reached the age of eighteen, that individual or the county attorney may petition the criminal court to transfer the matter to juvenile court, pursuant to section 803.5.

Sec. 5. NEW SECTION. 803.5 TRANSFER OF JURISDICTION.

1. An adult who is alleged to have committed a criminal offense prior to having reached the age of eighteen may be transferred to juvenile court for adjudication and disposition as a juvenile, provided that the taking of that person into custody for the alleged act or the filing of a complaint, information, or indictment alleging the act, occurs within the time periods and under the conditions specified in chapter 802 and further provided that the juvenile court has not already

waived its jurisdiction over the person and the alleged offense.

2. The defendant or the county attorney may file a motion for the transfer any time within ten days of the initial appearance.

3. The court shall hold a transfer hearing on all such motions. A notice of the time and place of the transfer hearing shall be given to all parties to the hearing.

4. Prior to the transfer 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 defendant for the alleged commission of the public offense and shall submit a report concerning the investigation to the court. The report shall include any recommendations made concerning transfer. Prior to the hearing the court shall provide the defendant's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that there is probable cause to believe that the adult committed an offense while still a juvenile, and waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph "c", and section 232.45, subsection 7, if the adult were still a child.

6. If after the hearing the court transfers jurisdiction over the adult to the juvenile court for the alleged commission of the public offense to the juvenile court, the court shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court in the same manner as provided in section 232.8, subsection 2.

Sec. 6. Section 805.1, subsection 8, Code Supplement 1987, is amended by striking the subsection.

Sec. 7. NEW SECTION. 805.16 CITATIONS TO PERSONS UNDER EIGHTEEN YEARS OF AGE.

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section 123.47, or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

2. A person under the age of eighteen who refuses to sign the citation without qualification, who persists in engaging in the conduct for which the citation was issued, who refuses to provide proper identification or to identify the person's self, or who constitutes an immediate threat to the person's own safety or the safety of the public may be arrested in the manner provided in subsection 3. In addition, or alternatively, the peace officer may require that person to surrender the person's motor vehicle operator's license until the time of the person's initial court appearance. The peace officer shall immediately send the person's operator's license along with a copy of the unsigned citation indicating the juvenile's refusal to sign to the clerk of the district court for the district in which the peace officer issued the citation.

3. A person arrested pursuant to subsection 2 shall only be arrested for the limited purpose of holding the person in nonsecure custody in an area not intended for secure detention while awaiting transfer to an appropriate juvenile facility or to court, for booking, for implied consent testing, for contacting and release to the person's parents, or for other administrative purposes.

For purposes of this subsection, "nonsecure custody" means custody in an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area, the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held, and the use of the area is limited to providing nonsecure custody only long enough for the purposes stated in the preceding paragraph and not for a period of time in excess of six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

4. This section does not prohibit the execution of an arrest warrant by a peace officer.

Sec. 8. Section 903.1, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

When if a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

Sec. 9. Section 903.1, subsection 3, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, section 123.47, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the

court, or may be required to perform community service as ordered by the court.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2278, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *May 5*, 1988

TERRY E. BRANSTAD
Governor