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MAR 18 1987

Place On Calendar

HOUSE FILE 567

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House Study Bill 203)

Passed House, Date 3-30-87 (p. 947) Passed Senate, Date 4/29/87 (p. 1526)

Vote: Ayes 93 Nays 0 Vote: Ayes 45 Nays 0

Approved May 28, 1987

A BILL FOR

1 An Act relating to the permanency plan and placement of a child
2 in need of assistance.

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

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HF 567

2011 Section 1. NEW SECTION. 232.104 PERMANENCY HEARING.

2 1. When a dispositional order pursuant to section 232.102
3 has been in force for eighteen months or more, the court, upon
4 its own motion, or upon the request of the county attorney,
5 the department of human services, juvenile court officer, the
6 child's attorney, or the child's parent, may hold a hearing,
7 subject to reasonable notice, to consider the issue of the
8 establishment of permanency for the child. The hearing may be
9 held concurrently with a hearing to review, modify,
10 substitute, or terminate a dispositional order.

11 During the permanency hearing, the court shall consider the
12 child's need for a secure and permanent placement in light of
13 any permanency plan or evidence submitted to the court. Upon
14 completion of the permanency hearing, the court shall make a
15 determination based upon the findings as to the permanency
16 plan which will best serve the child's individual interest.

17 2. Pursuant to its finding the court may decline to enter
18 an order or the court may enter a permanency order which
19 provides relief for the child based upon the child's
20 individual needs as determined by the court. The following
21 options are among those which the court may employ in a
22 permanency order:

23 a. A directive by the court to the county attorney or the
24 attorney for the child to initiate proceedings for termination
25 of the parent-child relationship.

26 b. After a finding that a return home or termination of
27 parental rights is not in the child's best interest, the court
28 may:

29 (1) Transfer guardianship and custody from the parent or
30 parents to a suitable person.

31 (2) Transfer custody of the child from one parent to
32 another.

33 (3) Transfer custody to a suitable person for the purpose
34 of long-term care.

35 (4) Order long-term foster care for the child.

1 The permanency order may provide restrictions upon the
2 contact between the child and the child's parents consistent
3 with the child's best interests.

4 3. Subsequent to entry of the permanency order pursuant to
5 this section, the child shall not be returned to the care,
6 custody, or control of the child's parents, over any objection
7 by the child or the child's guardian ad litem, unless the
8 court finds by clear and convincing evidence that the return
9 would be in the individual best interests of the child.

10 4. Following entry of a permanency order which places a
11 child in the custody of another person, the court shall retain
12 jurisdiction and annually review the order to ascertain
13 whether the child's best interests are being served. Any
14 modification shall be accomplished through a hearing procedure
15 following reasonable notice. During the hearing, all relevant
16 and material evidence shall be admitted and procedural due
17 process shall be provided to the parties.

18 Sec. 2. Section 232.117, Code 1987, is amended by adding
19 the following new subsections:

20 NEW SUBSECTION. 6. The guardian of each child whose
21 guardianship and custody has been transferred under subsection
22 3 and who has not been placed for adoption shall file a
23 written report with the court every six months concerning the
24 child's placement. The court shall hold a hearing to review
25 the placement at intervals not to exceed six months after the
26 date of the termination of parental rights or the last
27 placement review hearing.

28 NEW SUBSECTION. 7. The guardian of each child whose
29 guardianship and custody has been transferred under subsection
30 3 and who has been placed for adoption and whose adoption has
31 not been finalized shall file a written report with the court
32 every six months concerning the child's placement. The court
33 shall hold a hearing to review the placement at intervals not
34 to exceed six months after the date of the adoptive placement
35 or the last placement review hearing.

EXPLANATION

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2 This bill provides that the court, upon its own motion or
3 upon the request of the county attorney, the child's attorney,
4 the department of human services, juvenile court officer, the
5 child's attorney or the child's parent, may hold a hearing to
6 establish permanency in placement of a child. Following the
7 hearing, the court may enter a permanency order or decline to
8 enter an order which may include, as relief for the child:
9 initiation by the county attorney of termination of parent-
10 child relationship proceedings; transfer of guardianship and
11 custody from the parent or parents to a suitable person,
12 transfer of custody from one parent to another; transfer of
13 custody to a suitable person for long-term care; or an order
14 of foster care for the child. The permanency order may also
15 provide restrictions upon parent-child contact. Subsequent to
16 entry of a permanency order, a child is restricted from return
17 for care, custody, or control to the child's parents unless
18 the court finds the return to be in the best interest of the
19 child. The court retains jurisdiction following the placement
20 of a child in the custody of another person and the review
21 hearings are held annually to ascertain if the child's needs
22 are met.

23 The guardian of a child whose guardianship and custody have
24 been transferred and who has not been placed for adoption must
25 file a written report with the court every six months and the
26 court must hold a hearing at intervals not to exceed six
27 months after the date of termination of parental rights or the
28 last placement review hearing to review the placement. The
29 guardian of a child, whose guardianship and custody have been
30 transferred and who has been placed for adoption and whose
31 adoption has not been finalized, must file a written report
32 with the court every six months. The court must review the
33 placement at intervals not to exceed six months after the
34 adoptive placement or the last placement review hearing.

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HOUSE FILE 567

H-3403

1 Amend House File 567 as follows:

2 1. By striking page 1, line 1 through page 2,
3 line 17 and inserting the following:

4 "Section 1. Section 232.50, Code 1987, is amended
5 to read as follows:

6 232.50 DISPOSITIONAL HEARING.

7 1. As soon as practicable following the entry of
8 an order of adjudication pursuant to section 232.47,
9 the court shall hold a dispositional hearing in order
10 to determine what disposition should be made of the
11 matter.

12 2. The court shall hold a periodic dispositional
13 review hearing for each child in placement pursuant to
14 section 232.52, subsection 2, paragraph "d" or "e", to
15 determine the future disposition status of the child.
16 The hearings shall not be waived or continued beyond
17 eighteen months after the last dispositional hearing
18 or dispositional review hearing.

19 2 3. At that hearing dispositional hearings under
20 this section all relevant and material evidence shall
21 be admitted.

22 3 4. When the a dispositional hearing under this
23 section is concluded the court shall enter an order to
24 make any one or more of the dispositions authorized
25 under section 232.52.

26 Sec. 2. Section 232.95, Code 1987, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 4. If the court orders the child
29 removed from the home pursuant to subsection 2,
30 paragraph "a", the court shall hold a hearing to
31 review the removal order within six months unless a
32 dispositional hearing pursuant to section 232.99 has
33 been held.

34 Sec. 3. section 232.102, subsection 7, Code 1987,
35 is amended to read as follows:

36 ~~7. The duration of any placement made after an~~
37 ~~order pursuant to this section shall be for an initial~~
38 ~~period of six months. At the expiration of that~~
39 ~~period and every six months thereafter, the court~~
40 ~~shall hold a hearing and review the placement. An~~
41 ~~agency, facility, institution, or person to whom~~
42 ~~custody of the child has been transferred pursuant to~~
43 ~~this section shall file a written report with the~~
44 ~~court at least every six months concerning the status~~
45 ~~and progress of the child. The court shall hold a~~
46 ~~periodic dispositional review hearing for each child~~
47 ~~in placement pursuant to this section in order to~~
48 ~~determine whether the child should be returned home,~~
49 ~~an extension of the placement should be made, a~~
50 ~~permanency hearing should be held, or a termination of~~

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1 the parent-child relationship proceeding should be
2 instituted. The placement shall be terminated and the
3 child returned to the child's home if the court finds
4 by a preponderance of the evidence that the child will
5 not suffer harm in the manner specified in section
6 232.2, subsection 6. If the placement is extended,
7 the court shall determine whether additional services
8 are necessary to facilitate the return of the child to
9 the child's home, and if the court determines such
10 services are needed, the court shall order the
11 provision of such services. When the child is not
12 returned to the child's home and if the child has been
13 previously placed in a licensed foster care facility,
14 the department or agency responsible for the placement
15 of the child shall consider placing the child in the
16 same licensed foster care facility.

17 a. The initial dispositional review hearing shall
18 not be waived or continued beyond six months after the
19 date of the dispositional hearing.

20 b. Subsequent dispositional review hearings shall
21 not be waived or continued beyond twelve months after
22 the date of the most recent dispositional review
23 hearing.

24 c. For purposes of this subsection, a hearing held
25 pursuant to section 232.103 satisfies the requirements
26 for initial or subsequent dispositional review.

27 Sec. 4. NEW SECTION. 232.104 PERMANENCY HEARING.

28 1. If custody of a child has been transferred for
29 placement pursuant to section 232.102 for a period of
30 twelve months, or if the prior legal custodian of a
31 child has abandoned efforts to regain custody of the
32 child, the court shall, on its own motion, or upon
33 application by any interested party, hold a hearing to
34 consider the issue of the establishment of permanency
35 for the child.

36 Such a permanency hearing may be held concurrently
37 with a hearing to review, modify, substitute, vacate,
38 or terminate a dispositional order. Reasonable notice
39 of a permanency hearing in a case of juvenile
40 delinquency shall be provided pursuant to section
41 232.37. A permanency hearing shall be conducted in
42 substantial conformance with the provisions of section
43 232.99. During the hearing the court shall consider
44 the child's need for a secure and permanent placement
45 in light of any permanency plan or evidence submitted
46 to the court. Upon completion of the hearing the
47 court shall enter written findings and make a
48 determination based upon the permanency plan which
49 will best serve the child's individual interests at
50 that time.

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2. After a permanency hearing the court shall do one of the following:
- 3 a. Enter an order pursuant to section 232.102 to
 - 4 return the child to the child's home.
 - 5 b. Enter an order pursuant to section 232.102 to
 - 6 continue placement of the child for an additional six
 - 7 months at which time the court shall hold a hearing to
 - 8 consider modification of its permanency order.
 - 9 c. Direct the county attorney or the attorney for
 - 10 the child to institute proceedings to terminate the
 - 11 parent-child relationship.
 - 12 d. Enter an order, pursuant to findings required
 - 13 by subsection 3, to do one of the following:
 - 14 (1) Transfer guardianship and custody of the child
 - 15 to a suitable person.
 - 16 (2) Transfer sole custody of the child from one
 - 17 parent to another parent.
 - 18 (3) Transfer custody of the child to a suitable
 - 19 person for the purpose of long-term care.
 - 20 (4) Order long-term foster care placement for the
 - 21 child in a licensed foster care home or facility.
 - 22 3. Prior to entering a permanency order pursuant
 - 23 to subsection 2, paragraph "d", convincing evidence
 - 24 must exist showing that all of the following apply:
 - 25 a. A termination of the parent-child relationship
 - 26 would not be in the best interest of the child.
 - 27 b. Services were offered to the child's family to
 - 28 correct the situation which led to the child's removal
 - 29 from the home.
 - 30 c. The child cannot be returned to the child's
 - 31 home.
 - 32 4. Any permanency order may provide restrictions
 - 33 upon the contact between the child and the child's
 - 34 parent or parents, consistent with the best interest
 - 35 of the child.
 - 36 5. Subsequent to the entry of a permanency order
 - 37 pursuant to this section, the child shall not be
 - 38 returned to the care, custody, or control of the
 - 39 child's parent or parents, over a formal objection
 - 40 filed by the child's attorney or guardian ad litem,
 - 41 unless the court finds by clear and convincing
 - 42 evidence, that returning the child to such custody
 - 43 would be in the best interest of the child.
 - 44 6. Following the entry of a permanency order which
 - 45 places a child in the custody or guardianship of
 - 46 another person or agency, the court shall retain
 - 47 jurisdiction and annually review the order to
 - 48 ascertain whether the best interest of the child is
 - 49 being served. Any modification shall be accomplished
 - 50 through a hearing procedure following reasonable

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1 notice. During the hearing, all relevant and material
2 evidence shall be admitted and procedural due process
3 shall be provided to all parties.

4 Sec. 5. Section 232.117, subsection 5, Code 1987,
5 is amended to read as follows:

6 5. If the court orders the termination of parental
7 rights and transfers guardianship and custody under
8 subsection 3, the department of human services or the
9 agency responsible for the placement shall submit a
10 case permanency plan to the court and shall make every
11 effort to establish a stable placement for the child
12 by adoption or other permanent placement. ~~The child's~~
13 ~~placement shall be reviewed by the court every six~~
14 ~~months until the child is adopted.~~

15 2. Page 2, line 25, by striking the word "six"
16 and inserting the following: "twelve".

17 3. Page 2, line 34, by striking the word "six"
18 and inserting the following: "twelve".

19 4. By renumbering as necessary.

H-3403 FILED MARCH 25, 1987 BY BRAMMER of Linn

Adopted as amended by 3456 3/30/87 (p. 942)

HOUSE FILE 567

H-3409

Amend House File 567 as follows:

1. Page 2, by inserting after line 35 the following:

"Sec. . NEW SECTION. 232.119 ADOPTION EXCHANGE ESTABLISHED.

1. The purpose of this section is to facilitate the placement of all children in Iowa who are legally available for adoption through the establishment of an adoption exchange to help find adoptive homes for these children.

2. An adoption information exchange is established within the department to be operated by the department or by an individual or agency under contract with the department.

a. All special needs children under state guardianship shall be registered on the adoption exchange within sixty days of the termination of parental rights pursuant to section 232.117 or 600A.9 and assignment of guardianship to the commissioner.

b. Prospective adoptive families requesting a special needs child shall be registered on the adoption exchange upon receipt of an approved home study.

3. To register a child on the exchange, the adoption worker or agency shall submit all pertinent information concerning the child, a brief description and photo of the child, and other information needed to be compatible with the national adoption exchange. The exchange shall include a photo-listing book which shall be updated regularly. The adoption worker or agency which places a child on the exchange shall provide updated registration information within ten working days after a change in the information previously submitted occurs.

4. The exchange shall include a matching service for children registered or listed in the adoption photo-listing book and prospective adoptive families listed on the exchange. A child shall be registered with the national exchange if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

5. A request to defer registering the child on the exchange shall be granted if any of the following conditions exist:

a. The child is in an adoptive placement.

b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. The child needs diagnostic study or testing to clarify the child's problem and provide an adequate

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1 description of the problem.

2 d. The child is currently hospitalized and
3 receiving medical care that does not permit adoptive
4 placement.

5 e. The child is fourteen years of age or older and
6 will not consent to an adoption plan and the
7 consequences of not being adopted have been explained
8 to the child.

9 Upon receipt of a valid written request for
10 deferral pursuant to paragraphs "a" through "e", the
11 exchange shall grant the deferral, except that a
12 deferral based on paragraph "b" or "c" shall be
13 granted for no more than a one-time ninety-day
14 period."

15 2. Title page, by striking line 2, and inserting
16 the following: "under the jurisdiction of the
17 juvenile court."

18 3. ~~By~~ renumbering as necessary.

H-3409 FILED MARCH 25, 1987 BY BRAMMER of Linn

Adopted as amended by 3419 3/30/87 (p. 947)

HOUSE FILE 567

H-3419

1 Amend the amendment, H-3409, to House File 567 as
2 follows:

3 1. Page 2, by striking lines 15 through 17 and
4 inserting the following:

5 "_____. Title page, by striking lines 1 and 2 and
6 inserting the following: "An Act relating to
7 permanency planning for children by providing for
8 dispositional and placement review hearings for
9 certain children subject to the jurisdiction of the
10 juvenile court, by authorizing permanency placement
11 orders for certain children in need of assistance, by
12 modifying certain grounds and procedures for the
13 termination of parental rights, and by establishing an
14 adoption exchange.""

H-3419 FILED MARCH 26, 1987 BY BRAMMER of Linn

Adopted 3/30 (p. 947)

HOUSE FILE 567

H-3445

1 Amend House File 567 as follows:

2 1. Page 2, by inserting after line 17 the
3 following:

4 "Sec. ____ . Section 232.116, Code 1987, is amended
5 to read as follows:

6 232.116 GROUNDS FOR TERMINATION.

7 1. Except as provided in subsection 6 3, the court
8 may order the termination of both the parental rights
9 with respect to a child and the relationship between
10 the ~~parents~~ parent and the child on any of the
11 following grounds:

12 1 a. The parents voluntarily and intelligently
13 consent to the termination of parental rights and the
14 parent-child relationship and for good cause desire
15 the termination.

16 2 b. The court finds that there is clear and
17 convincing evidence that the child has been abandoned.

18 3 c. The court finds that all of the following
19 have occurred:

20 a- (1) One or both parents ~~has~~ have physically or
21 sexually abused the child; ~~and.~~

22 b- (2) The court has previously adjudicated the
23 child to be a child in need of assistance after
24 finding the child to have been physically or sexually
25 abused as the result of the acts or omissions of the
26 parent one or both parents, or the court has
27 previously adjudicated a child who is a member of the
28 same family to be a child in need of assistance after
29 such a finding; ~~and.~~

30 c- (3) There is clear and convincing evidence that
31 the parents were offered but refused services or
32 failed to cooperate to correct the situation which led
33 to the abuse or that the parents had been
34 to correct the situation which led to the abuse and
35 the services did not correct the abusive situation.

36 4 d. The court finds that all of the following
37 have occurred:

38 a- (1) The child has been adjudicated a child in
39 need of assistance pursuant to section 232.96; ~~and.~~

40 b- (2) The custody of the child has been
41 transferred from the child's parents for placement
42 pursuant to section 232.102 and the placement has
43 lasted for a period of at least six consecutive
44 months; ~~but-less-than-twelve-consecutive-months; and.~~

45 c- (3) There is clear and convincing evidence that
46 the child cannot be returned to the custody of the
47 child's parents as provided in section 232.102; ~~and.~~

48 d- (4) There is clear and convincing evidence that
49 the parents have not maintained contact with the child
50 during the previous six consecutive months and have

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1 made no reasonable efforts to resume care of the child
2 despite being given the opportunity to do so.

3 5 e. The court finds that all of the following
4 have occurred:

5 a- (1) The child has been adjudicated a child in
6 need of assistance pursuant to section 232.967-and.

7 b- (2) The custody of the child has been
8 transferred from the child's parents for placement
9 pursuant to section 232.102 for at least twelve of the
10 last eighteen months7-and.

11 c- (3) There is clear and convincing evidence that
12 the child cannot be returned to the custody of the
13 child's parents as provided in section 232.102.

14 f. The court finds that all of the following have
15 occurred:

16 (1) The child has been adjudicated a child in need
17 of assistance pursuant to section 232.96.

18 (2) The court has terminated parental rights pur-
19 suant to section 232.117 with respect to another child
20 who is a member of the same family.

21 (3) There is clear and convincing evidence that
22 the child cannot be returned to or placed in the
23 custody of the child's parents.

24 (4) There is clear and convincing evidence that
25 the parent continues to lack the ability or
26 willingness to respond to services which would correct
27 the situation.

28 (5) There is clear and convincing evidence that an
29 additional period of rehabilitation would not correct
30 the situation.

31 2. In considering whether to terminate the rights
32 of a parent under this section, the court shall give
33 primary consideration to the physical, mental, and
34 emotional condition and needs of the child. Such
35 consideration may include any of the following:

36 a. Whether the parent's ability to provide the
37 needs of the child is affected by the parent's mental
38 capacity or mental condition or the parent's
39 imprisonment for a felony.

40 b. For a child who has been placed in foster
41 family care by a court or has been voluntarily placed
42 in foster family care by a parent or by another
43 person, whether the child has become integrated into
44 the foster family to the extent that the child's
45 familial identity is with the foster family, and
46 whether the foster family is able and willing to
47 permanently integrate the child into the foster
48 family. In considering integration into a foster
49 family, the court shall review the following:

50 (1) The length of time the child has lived in a

1 stable, satisfactory environment and the desirability
2 of maintaining that environment and continuity for the
3 child.

4 (2) The reasonable preference of the child, if the
5 court determines that the child has sufficient
6 capacity to express a reasonable preference.

7 ~~6 3. Notwithstanding the provisions of subsections~~
8 ~~2-to-5-the~~ The court need not terminate the
9 relationship between parents the parent and child if
10 the court finds any of the following:

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

12 b. The child is over ten years of age and objects
13 to such the termination; or.

14 c. There is clear and convincing evidence that
15 such the termination would be detrimental to the child
16 at the time due to the closeness of the parent-child
17 relationship; ~~or.~~

18 d. It is necessary to place the child in a
19 hospital, facility, or institution for care and
20 treatment and the continuation of the parent-child
21 relationship is not preventing a permanent family
22 placement for the child.

23 e. ~~That-the~~ The absence of a parent is due to the
24 parent's admission or commitment to any institution,
25 hospital, or health facility or due to active service
26 in the state or federal armed forces."

7 2. By renumbering as necessary.

BY PETERSON of Carroll
BLACK of Jasper
BRAMMER of Linn
CLARK of Cerro Gordo

TEAFORD of Black Hawk
SIEGRIST of Pottawattamie
FEY of Scott
BISIGNANO of Polk

H-3445 FILED MARCH 27, 1987

Adopted 3/30/87 (p. 945)

HOUSE FILE 567

1 Amend the amendment, H-3403, to House File 567 as
2 follows:

3 1. Page 2, line 25, by inserting after the figure
4 "232.103" the following: "or 232.104".

5 2. Page 3, line 49, by inserting after the word
6 "served." the following: "When such order places the
7 child in the custody of the department for the purpose
8 of long-term foster care placement in a facility, the
9 review shall be in a hearing that shall not be waived
10 or continued beyond twelve months after the permanency
11 hearing or the last review hearing."

12 3. Page 4, by striking lines 15 and 16.

H-3456 FILED MARCH 30, 1987

BY BRAMMER of Linn

Adopted 3/30 (p. 945)

See Judiciary 4/1/87 Do Pass 4/8/87 (p. 1160)

HOUSE FILE 567
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(As Amended and Passed by the House March 30, 1987)

Passed House, Date 5/5/87 (p. 1967) Passed Senate, Date 4/24/87 (p. 1526)

Vote: Ayes 95 Nays 0 Vote: Ayes 45 Nays 0

Approved May 28, 1987
Motion to reconsider (p. 1536) w/d 4/30/87

A BILL FOR

1 An Act relating to permanency planning for children by providing
2 for dispositional and placement review hearings for certain
3 children subject to the jurisdiction of the juvenile court, by
4 authorizing permanency placement orders for certain children
5 in need of assistance, by modifying certain grounds and
6 procedures for the termination of parental rights, and by
7 establishing an adoption exchange.

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

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House Amendments _____

1 Section 1. Section 232.50, Code 1987, is amended to read
2 as follows:

3 232.50 DISPOSITIONAL HEARING.

4 1. As soon as practicable following the entry of an order
5 of adjudication pursuant to section 232.47, the court shall
6 hold a dispositional hearing in order to determine what
7 disposition should be made of the matter.

8 2. The court shall hold a periodic dispositional review
9 hearing for each child in placement pursuant to section
10 232.52, subsection 2, paragraph "d" or "e", to determine the
11 future disposition status of the child. The hearings shall
12 not be waived or continued beyond eighteen months after the
13 last dispositional hearing or dispositional review hearing.

14 3. At that hearing dispositional hearings under this
15 section all relevant and material evidence shall be admitted.

16 4. When the a dispositional hearing under this section
17 is concluded the court shall enter an order to make any one or
18 more of the dispositions authorized under section 232.52.

19 Sec. 2. Section 232.95, Code 1987, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 4. If the court orders the child removed
22 from the home pursuant to subsection 2, paragraph "a", the
23 court shall hold a hearing to review the removal order within
24 six months unless a dispositional hearing pursuant to section
25 232.99 has been held.

26 Sec. 3. Section 232.102, subsection 7, Code 1987, is
27 amended to read as follows:

28 7. ~~The duration of any placement made after an order~~
29 ~~pursuant to this section shall be for an initial period of six~~
30 ~~months. At the expiration of that period and every six months~~
31 ~~thereafter, the court shall hold a hearing and review the~~
32 placement An agency, facility, institution, or person to whom
33 custody of the child has been transferred pursuant to this
34 section shall file a written report with the court at least
35 every six months concerning the status and progress of the

1 child. The court shall hold a periodic dispositional review
2 hearing for each child in placement pursuant to this section
3 in order to determine whether the child should be returned
4 home, an extension of the placement should be made, a
5 permanency hearing should be held, or a termination of the
6 parent-child relationship proceeding should be instituted.
7 The placement shall be terminated and the child returned to
8 the child's home if the court finds by a preponderance of the
9 evidence that the child will not suffer harm in the manner
10 specified in section 232.2, subsection 6. If the placement is
11 extended, the court shall determine whether additional
12 services are necessary to facilitate the return of the child
13 to the child's home, and if the court determines such services
14 are needed, the court shall order the provision of such
15 services. When the child is not returned to the child's home
16 and if the child has been previously placed in a licensed
17 foster care facility, the department or agency responsible for
18 the placement of the child shall consider placing the child in
19 the same licensed foster care facility.

20 a. The initial dispositional review hearing shall not be
21 waived or continued beyond six months after the date of the
22 dispositional hearing.

23 b. Subsequent dispositional review hearings shall not be
24 waived or continued beyond twelve months after the date of the
25 most recent dispositional review hearing.

26 c. For purposes of this subsection, a hearing held
27 pursuant to section 232.103 or 232.104 satisfies the
28 requirements for initial or subsequent dispositional review.

29 Sec. 4. NEW SECTION. 232.104 PERMANENCY HEARING.

30 1. If custody of a child has been transferred for
31 placement pursuant to section 232.102 for a period of twelve
32 months, or if the prior legal custodian of a child has
33 abandoned efforts to regain custody of the child, the court
34 shall, on its own motion, or upon application by any
35 interested party, hold a hearing to consider the issue of the

1 establishment of permanency for the child.

2 Such a permanency hearing may be held concurrently with a
3 hearing to review, modify, substitute, vacate, or terminate a
4 dispositional order. Reasonable notice of a permanency
5 hearing in a case of juvenile delinquency shall be provided
6 pursuant to section 232.37. A permanency hearing shall be
7 conducted in substantial conformance with the provisions of
8 section 232.99. During the hearing the court shall consider
9 the child's need for a secure and permanent placement in light
10 of any permanency plan or evidence submitted to the court.
11 Upon completion of the hearing the court shall enter written
12 findings and make a determination based upon the permanency
13 plan which will best serve the child's individual interests at
14 that time.

15 2. After a permanency hearing the court shall do one of
16 the following:

17 a. Enter an order pursuant to section 232.102 to return
18 the child to the child's home.

19 b. Enter an order pursuant to section 232.102 to continue
20 placement of the child for an additional six months at which
21 time the court shall hold a hearing to consider modification
22 of its permanency order.

23 c. Direct the county attorney or the attorney for the
24 child to institute proceedings to terminate the parent-child
25 relationship.

26 d. Enter an order, pursuant to findings required by
27 subsection 3, to do one of the following:

28 (1) Transfer guardianship and custody of the child to a
29 suitable person.

30 (2) Transfer sole custody of the child from one parent to
31 another parent.

32 (3) Transfer custody of the child to a suitable person for
33 the purpose of long-term care.

34 (4) Order long-term foster care placement for the child in
35 a licensed foster care home or facility.

1 3. Prior to entering a permanency order pursuant to
2 subsection 2, paragraph "d", convincing evidence must exist
3 showing that all of the following apply:

4 a. A termination of the parent-child relationship would
5 not be in the best interest of the child.

6 b. Services were offered to the child's family to correct
7 the situation which led to the child's removal from the home.

8 c. The child cannot be returned to the child's home.

9 4. Any permanency order may provide restrictions upon the
10 contact between the child and the child's parent or parents,
11 consistent with the best interest of the child.

12 5. Subsequent to the entry of a permanency order pursuant
13 to this section, the child shall not be returned to the care,
14 custody, or control of the child's parent or parents, over a
15 formal objection filed by the child's attorney or guardian ad
16 litem, unless the court finds by clear and convincing
17 evidence, that returning the child to such custody would be in
18 the best interest of the child.

19 6. Following the entry of a permanency order which places
20 a child in the custody or guardianship of another person or
21 agency, the court shall retain jurisdiction and annually
22 review the order to ascertain whether the best interest of the
23 child is being served. When such order places the child in
24 the custody of the department for the purpose of long-term
25 foster care placement in a facility, the review shall be in a
26 hearing that shall not be waived or continued beyond twelve
27 months after the permanency hearing or the last review
28 hearing. Any modification shall be accomplished through a
29 hearing procedure following reasonable notice. During the
30 hearing, all relevant and material evidence shall be admitted
31 and procedural due process shall be provided to all parties.

32 Sec. 5. Section 232.117, subsection 5, Code 1987, is
33 amended to read as follows:

34 5. If the court orders the termination of parental rights
35 and transfers guardianship and custody under subsection 3, the

1 department of human services or the agency responsible for the
2 placement shall submit a case permanency plan to the court and
3 shall make every effort to establish a stable placement for
4 the child by adoption or other permanent placement. The
5 child's placement shall be reviewed by the court every six
6 months until the child is adopted.

7 Sec. 6. Section 232.116, Code 1987, is amended to read as
8 follows:

9 232.116 GROUNDS FOR TERMINATION.

10 1. Except as provided in subsection 6 3, the court may
11 order the termination of both the parental rights with respect
12 to a child and the relationship between the parents parent and
13 the child on any of the following grounds:

14 1 a. The parents voluntarily and intelligently consent to
15 the termination of parental rights and the parent-child
16 relationship and for good cause desire the termination.

17 2 b. The court finds that there is clear and convincing
18 evidence that the child has been abandoned.

19 3 c. The court finds that all of the following have
20 occurred:

21 a (1) One or both parents has have physically or sexually
22 abused the child, and.

23 b (2) The court has previously adjudicated the child to
24 be a child in need of assistance after finding the child to
25 have been physically or sexually abused as the result of the
26 acts or omissions of the parent one or both parents, or the
27 court has previously adjudicated a child who is a member of
28 the same family to be a child in need of assistance after such
29 a finding, and.

30 c (3) There is clear and convincing evidence that the
31 parents were offered but refused services or failed to
32 cooperate to correct the situation which led to the abuse or
33 that the parents had received services to correct the
34 situation which led to the abuse but the services did not
35 correct the abusive situation.

1 4 d. The court finds that all of the following have
2 occurred:

3 a- (1) The child has been adjudicated a child in need of
4 assistance pursuant to section 232.96-~~and~~.

5 b- (2) The custody of the child has been transferred from
6 the child's parents for placement pursuant to section 232.102
7 and the placement has lasted for a period of at least six
8 consecutive months-~~but-less-than-twelve-consecutive-months-~~
9 and.

10 c- (3) There is clear and convincing evidence that the
11 child cannot be returned to the custody of the child's parents
12 as provided in section 232.102-~~and~~.

13 d- (4) There is clear and convincing evidence that the
14 parents have not maintained contact with the child during the
15 previous six consecutive months and have made no reasonable
16 efforts to resume care of the child despite being given the
17 opportunity to do so.

18 5 e. The court finds that all of the following have
19 occurred:

20 a- (1) The child has been adjudicated a child in need of
21 assistance pursuant to section 232.96-~~and~~.

22 b- (2) The custody of the child has been transferred from
23 the child's parents for placement pursuant to section 232.102
24 for at least twelve of the last eighteen months-~~and~~.

25 c- (3) There is clear and convincing evidence that the
26 child cannot be returned to the custody of the child's parents
27 as provided in section 232.102.

28 f. The court finds that all of the following have
29 occurred:

30 (1) The child has been adjudicated a child in need of
31 assistance pursuant to section 232.96.

32 (2) The court has terminated parental rights pursuant to
33 section 232.117 with respect to another child who is a member
34 of the same family.

35 (3) There is clear and convincing evidence that the child

1 cannot be returned to or placed in the custody of the child's
2 parents.

3 (4) There is clear and convincing evidence that the parent
4 continues to lack the ability or willingness to respond to
5 services which would correct the situation.

6 (5) There is clear and convincing evidence that an
7 additional period of rehabilitation would not correct the
8 situation.

9 2. In considering whether to terminate the rights of a
10 parent under this section, the court shall give primary
11 consideration to the physical, mental, and emotional condition
12 and needs of the child. Such consideration may include any of
13 the following:

14 a. Whether the parent's ability to provide the needs of
15 the child is affected by the parent's mental capacity or
16 mental condition or the parent's imprisonment for a felony.

17 b. For a child who has been placed in foster family care
18 by a court or has been voluntarily placed in foster family
19 care by a parent or by another person, whether the child has
20 become integrated into the foster family to the extent that
21 the child's familial identity is with the foster family, and
22 whether the foster family is able and willing to permanently
23 integrate the child into the foster family. In considering
24 integration into a foster family, the court shall review the
25 following:

26 (1) The length of time the child has lived in a stable,
27 satisfactory environment and the desirability of maintaining
28 that environment and continuity for the child.

29 (2) The reasonable preference of the child, if the court
30 determines that the child has sufficient capacity to express a
31 reasonable preference.

32 6 3. Notwithstanding the provisions of subsections 2 to 5
33 the The court need not terminate the relationship between
34 parents the parent and child if the court finds any of the
35 following:

- 1 a. A relative has legal custody of the child; -or.
2 b. The child is over ten years of age and objects to such
3 the termination; -or.
4 c. There is clear and convincing evidence that such the
5 termination would be detrimental to the child at the time due
6 to the closeness of the parent-child relationship; -or.
7 d. It is necessary to place the child in a hospital,
8 facility, or institution for care and treatment and the
9 continuation of the parent-child relationship is not
10 preventing a permanent family placement for the child.
11 e. ~~That-the~~ The absence of a parent is due to the parent's
12 admission or commitment to any institution, hospital, or
13 health facility or due to active service in the state or
14 federal armed forces.

15 Sec. 7. Section 232.117, Code 1987, is amended by adding
16 the following new subsections:

17 NEW SUBSECTION. 6. The guardian of each child whose
18 guardianship and custody has been transferred under subsection
19 3 and who has not been placed for adoption shall file a
20 written report with the court every six months concerning the
21 child's placement. The court shall hold a hearing to review
22 the placement at intervals not to exceed six months after the
23 date of the termination of parental rights or the last
24 placement review hearing.

25 NEW SUBSECTION. 7. The guardian of each child whose
26 guardianship and custody has been transferred under subsection
27 3 and who has been placed for adoption and whose adoption has
28 not been finalized shall file a written report with the court
29 every six months concerning the child's placement. The court
30 shall hold a hearing to review the placement at intervals not
31 to exceed twelve months after the date of the adoptive
32 placement or the last placement review hearing.

33 Sec. 8. NEW SECTION. 232.119 ADOPTION EXCHANGE
34 ESTABLISHED.

35 1. The purpose of this section is to facilitate the

1 placement of all children in Iowa who are legally available
2 for adoption through the establishment of an adoption exchange
3 to help find adoptive homes for these children.

4 2. An adoption information exchange is established within
5 the department to be operated by the department or by an
6 individual or agency under contract with the department.

7 a. All special needs children under state guardianship
8 shall be registered on the adoption exchange within sixty days
9 of the termination of parental rights pursuant to section
10 232.117 or 600A.9 and assignment of guardianship to the
11 commissioner.

12 b. Prospective adoptive families requesting a special
13 needs child shall be registered on the adoption exchange upon
14 receipt of an approved home study.

15 3. To register a child on the exchange, the adoption
16 worker or agency shall submit all pertinent information
17 concerning the child, a brief description and photo of the
18 child, and other information needed to be compatible with the
19 national adoption exchange. The exchange shall include a
20 photo-listing book which shall be updated regularly. The
21 adoption worker or agency which places a child on the exchange
22 shall provide updated registration information within ten
23 working days after a change in the information previously
24 submitted occurs.

25 4. The exchange shall include a matching service for
26 children registered or listed in the adoption photo-listing
27 book and prospective adoptive families listed on the exchange.
28 A child shall be registered with the national exchange if the
29 child has not been placed for adoption after three months on
30 the exchange established pursuant to this section.

31 5. A request to defer registering the child on the
32 exchange shall be granted if any of the following conditions
33 exist:

34 a. The child is in an adoptive placement.

35 b. The child's foster parents or another person with a

1 significant relationship is being considered as the adoptive
2 family.

3 c. The child needs diagnostic study or testing to clarify
4 the child's problem and provide an adequate description of the
5 problem.

6 d. The child is currently hospitalized and receiving
7 medical care that does not permit adoptive placement.

8 e. The child is fourteen years of age or older and will
9 not consent to an adoption plan and the consequences of not
10 being adopted have been explained to the child.

11 Upon receipt of a valid written request for deferral
12 pursuant to paragraphs "a" through "e", the exchange shall
13 grant the deferral, except that a deferral based on paragraph
14 "b" or "c" shall be granted for no more than a one-time
15 ninety-day period.

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HOUSE FILE 567

3741

1 Amend House File 567 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 1, line 15, by inserting after the word
4 "admitted" the following: "provided,
5 notwithstanding any other provisions of this or any
6 other chapter, that written reports which contain
7 hearsay are inadmissible unless the name, address, and
8 telephone number of the original source of the hearsay
9 are provided in the report together with the date on
10 which and the name of all persons present when the
11 statement was made and provided that all facts known
12 to the writer which are relevant to any conclusions or
13 opinions contained in the report are presented in the
14 report; and provided further that no hearsay evidence
15 is admissible unless written notice of the evidence is
16 provided to all parties within five days before any
17 hearing at which the evidence will be offered, and
18 provided that no opinions or recommendations
19 concerning ultimate issues to be decided by the court
20 are admissible with the exception of expert opinions
21 concerning physical or mental conditions".

22 2. Page 1, by inserting after line 25 the
23 following:

24 "Sec. ____ Section 232.99, subsection 2, Code
25 1987, is amended to read as follows:

26 2. All relevant and material evidence shall be
27 admitted, provided, notwithstanding any other
28 provisions of this or any other chapter, that written
29 reports which contain hearsay are inadmissible unless
30 the name, address, and telephone number of the
31 original source of the hearsay are provided in the
32 report together with the date on which and the name of
33 all persons present when the statement was made and
34 provided that all facts known to the writer which are
35 relevant to any conclusions or opinions contained in
36 the report are presented in the report; and provided
37 further that no hearsay evidence is admissible unless
38 written notice of the evidence is provided to all
39 parties within five days before any hearing at which
40 the evidence will be offered, and provided that no
41 opinions or recommendations concerning ultimate issues
42 to be decided by the court are admissible with the
43 exception of expert opinions concerning physical or
44 mental conditions."

45 3. By renumbering as necessary.

S-3741

Filed April 23, 1987

BY TOM MANN, JR.

X/D 4/20 (p 1525)

HOUSE FILE 567

S-3708

- 1 Amend House File 567 as amended, passed and
2 reprinted by the House as follows:
3 1. Page 7, by striking lines 9 through 31 and
4 inserting in lieu thereof the following:
5 "2. After the grounds for termination have been
6 established, the court shall give primary
7 consideration to the physical, mental, and emotional
8 needs of the child. Such consideration may include,
9 but is not limited to any of the following:
10 a. The preference of the child, if the court
11 determines that the child has sufficient capacity to
12 express a reasonable preference.
13 b. The value of maintaining the parent-child
14 relationship.
15 c. The feasibility of adoption."

S-3708

Filed April 21, 1987

BY JULIA GENTLEMAN

Adopted 4/24/87 (p 1525)

HOUSE FILE 567

S-3814

- 1 Amend the amendment, S-3781, to House File 567, as
2 amended, passed, and reprinted by the House as
3 follows:
- 4 1. Page 1, by striking lines 9 through 14 and
5 inserting the following: "are provided in the report;
6 and provided further that no hearsay evidence".
7 2. Page 1, line 18, by striking the words "or
8 recommendations".
9 3. Page 1, by inserting after line 22 the
10 following:
11 "____. Page 1, by inserting after line 15 the
12 following:
13 "The provisions of this subsection regarding
14 inadmissibility of evidence do not apply to written
15 reports of volunteer officers of the court appointed
16 by the court."
17 4. Page 1, by striking lines 33 through 37 and
18 inserting the following: "report; and provided
19 further that".
20 5. Page 1, line 42, by striking the words "or
21 recommendations".
22 6. Page 1, line 46, by inserting after the word
23 "conditions." the following: "The provisions of this
24 subsection regarding inadmissibility of evidence do
25 not apply to written reports of volunteer officers of
26 the court appointed by the court."

S-3814

Filed April 24, 1987
ADOPTED (y. 1525)

BY RICHARD VARN

HOUSE FILE 567

S-3817

- 1 Amend House File 567 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 4, line 15, by striking the words "clear
4 and convincing" and inserting the following: "a
5 preponderance of the".

S-3817

Filed April 24, 1987
ADOPTED (y. 1526)

BY ROBERT M. CARR
TOM MANN, JR.
JULIA GENTLEMAN

HOUSE FILE 567

S-3781

Amend House File 567 as amended, passed, and reprinted by the House as follows:

1. Page 1, line 15, by inserting after the word "admitted" the following: "provided, notwithstanding any other provisions of this or any other chapter, that written reports which contain hearsay are inadmissible unless the name, address, and telephone number of the original source of the hearsay are provided in the report together with the name of all persons present and the date when the statement was made and provided that all facts known to the writer which are relevant to any conclusions or opinions contained in the report are presented in the report; and provided further that no hearsay evidence is admissible unless written notice of the evidence is provided to all parties within five days before any hearing at which the evidence will be offered, and provided that no opinions or recommendations concerning ultimate statutory, adjudicatory, or dispositional issues to be decided by the court are admissible with the exception of expert opinions concerning physical or mental conditions".

2. Page 1, by inserting after line 25 the following:

"Sec. ____ . Section 232.99, subsection 2, Code 1987, is amended to read as follows:

2. All relevant and material evidence shall be admitted, provided, notwithstanding any other provisions of this or any other chapter, that written reports which contain hearsay are inadmissible unless the name, address, and telephone number of the original source of the hearsay are provided in the report together with the name of all persons present and the date when the statement was made and provided that all facts known to the writer which are relevant to any conclusions or opinions contained in the report are presented in the report; and provided further that no hearsay evidence is admissible unless written notice of the evidence is provided to all parties within five days before any hearing at which the evidence will be offered, and provided that no opinions or recommendations concerning ultimate statutory, adjudicatory, or dispositional issues to be decided by the court are admissible with the exception of expert opinions concerning physical or mental conditions."

3. By renumbering as necessary.

S-3781

Filed April 24, 1987

BY TOM MANN, JR.

ADOPTED as amended by 3814 4/24/87 (p.15.25)

SENATE AMENDMENT TO HOUSE FILE 567

H-4118

1 Amend House File 567 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 1, line 15, by inserting after the word
4 "admitted" the following: "provided,
5 notwithstanding any other provisions of this or any
6 other chapter, that written reports which contain
7 hearsay are inadmissible unless the name, address, and
8 telephone number of the original source of the hearsay
9 are provided in the report; and provided further that
10 no hearsay evidence is admissible unless written
11 notice of the evidence is provided to all parties
12 within five days before any hearing at which the
13 evidence will be offered, and provided that no
14 opinions concerning ultimate statutory, adjudicatory,
15 or dispositional issues to be decided by the court are
16 admissible with the exception of expert opinions
17 concerning physical or mental conditions".

18 2. Page 1, by inserting after line 15 the
19 following:

20 "The provisions of this subsection regarding
21 inadmissibility of evidence do not apply to written
22 reports of volunteer officers of the court appointed
23 by the court."

24 3. Page 1, by inserting after line 25 the
25 following:

26 "Sec. ____ . Section 232.99, subsection 2, Code
27 1987, is amended to read as follows:

28 2. All relevant and material evidence shall be
29 admitted, provided, notwithstanding any other
30 provisions of this or any other chapter, that written
31 reports which contain hearsay are inadmissible unless
32 the name, address, and telephone number of the
33 original source of the hearsay are provided in the
34 report; and provided further that no hearsay evidence
35 is admissible unless written notice of the evidence is
36 provided to all parties within five days before any
37 hearing at which the evidence will be offered, and
38 provided that no opinions concerning ultimate
39 statutory, adjudicatory, or dispositional issues to be
40 decided by the court are admissible with the exception
41 of expert opinions concerning physical or mental
42 conditions. The provisions of this subsection
43 regarding inadmissibility of evidence do not apply to
44 written reports of volunteer officers of the court
45 appointed by the court."

46 4. Page 4, line 16, by striking the words "clear
47 and convincing" and inserting the following: "a
48 preponderance of the".

49 5. Page 7, by striking lines 9 through 31 and
50 inserting in lieu thereof the following:

H-4118

Page Two

1 "2. After the grounds for termination have been
 2 established, the court shall give primary
 3 consideration to the physical, mental, and emotional
 4 needs of the child. Such consideration may include,
 5 but is not limited to any of the following:

6 a. The preference of the child, if the court
 7 determines that the child has sufficient capacity to
 8 express a reasonable preference.

9 b. The value of maintaining the parent-child
 10 relationship.

11 c. The feasibility of adoption."

12 6. Page 10, by inserting after line 15 the
 13 following:

14 "Sec. ____ . Section 598.35, Code 1987, is amended
 15 to read as follows:

16 598.35 GRANDPARENTS VISITATION RIGHTS.

17 The grandparents grandparent of a child may
 18 petition the district court for grandchild visitation
 19 rights when any of the following circumstances occur:

20 1. The parents of the child are divorced~~7-or.~~

21 2. A petition for dissolution of marriage has been
 22 filed by one of the parents of the child~~7-or.~~

23 3. The parent of the child, who is the child of
 24 the grandparents grandparent, has died~~7-or.~~

25 4. The child has been placed in a foster home.

26 5. The parents of the child are divorced, and the
 27 parent who is not the child of the grandparent has
 28 legal custody of the child, and the spouse of the
 29 child's custodial parent has been issued a final
 30 adoption decree pursuant to section 600.13.

31 6. The paternity of a child born out of wedlock is
 32 judicially established and the grandparent of the
 33 child is the parent of the father of the child and the
 34 mother of the child has custody of the child, or the
 35 grandparent of a child born out of wedlock is the
 36 parent of the mother of the child and custody has been
 37 awarded to the father of the child.

38 A petition for grandchild visitation rights shall
 39 be granted only upon a finding that the visitation is
 40 in the best interests of the child and that the
 41 grandparent had established a substantial relationship
 42 with the child prior to the filing of the petition.

43 Sec. ____ . Section 600A.10, Code 1987, is
 44 repealed."

45 7. Title page, line 6, by inserting after the
 46 word "rights" the following: "and for the granting of
 47 grandparent visitation rights".

48 8. By renumbering, relettering, or redesignating
 49 and correcting internal references as necessary.

H-4118 FILED APRIL 30, 1987 RECEIVED FROM THE SENATE

House amended & concurred 5/5 (p. 1967)

HOUSE FILE 567

H-4127

1 Amend the Senate amendment, H-4118, to House File
2 567 as amended, passed and reprinted by the House as
3 follows:

- 4 1. Page 2, by striking lines 12 through 47.
- 5 2. By renumbering as necessary.

H-4127 FILED MAY 1, 1987 BY TEAFORD of Black Hawk
Law 5/5 (p. 1967)

HOUSE FILE 567

H-4151

1 Amend the Senate amendment, H-4118, to House File
2 567, as amended, passed, and reprinted by the House,
3 as follows:

- 4 1. Page 1, by striking lines 3 through 45.

H-4151 FILED MAY 4, 1987 BY BRAMMER of Linn
(Adopted 5/5/87 (p. 1966))

HOUSE FILE 567

H-4199

1 Amend the Senate amendment, H-4118, to House File
2 567 as amended, passed and reprinted by the House as
3 follows:

- 4 1. By striking page 1, line 49 through page 2,
5 line 11.
- 6 2. By renumbering as necessary.

H-4199 FILED MAY 4, 1987 BY PETERSON of Carroll
(Adopted 5/5/87 (p. 1966))

HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 567

S-4007

1 Amend the Senate amendment, H-4118, to House File
2 567, as amended, passed, and reprinted by the House,
3 as follows:

- 4 1. Page 1, by striking lines 3 through 45.
- 5 2. By striking page 1, line 49 through page 2,
6 line 11.
- 7 3. By renumbering, relettering, or redesignating
8 and correcting internal references as necessary.

S-4007
Filed May 5, 1987
Senate concurred 5/7/87 (p. 1756)

RECEIVED FROM THE HOUSE

HOUSE FILE 567

S-3816

1 Amend House File 567 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 10, by inserting after line 15 the
4 following:

5 "Sec. _____. Section 598.35, Code 1987, is amended
6 to read as follows:

7 598.35 GRANDPARENTS VISITATION RIGHTS.

8 The grandparents grandparent of a child may
9 petition the district court for grandchild visitation
10 rights when any of the following circumstances occur:

11 1. The parents of the child are divorced-or.

12 2. A petition for dissolution of marriage has been
13 filed by one of the parents of the child-or.

14 3. The parent of the child, who is the child of
15 the grandparents grandparent, has died-or.

16 4. The child has been placed in a foster home.

17 5. The parents of the child are divorced, and the
18 parent who is not the child of the grandparent has
19 legal custody of the child, and the spouse of the
20 child's custodial parent has been issued a final
21 adoption decree pursuant to section 600.13.

22 6. The paternity of a child born out of wedlock is
23 judicially established and the grandparent of the
24 child is the parent of the father of the child and the
25 mother of the child has custody of the child, or the
26 grandparent of a child born out of wedlock is the
27 parent of the mother of the child and custody has been
28 awarded to the father of the child.

29 A petition for grandchild visitation rights shall
30 be granted only upon a finding that the visitation is
31 in the best interests of the child and that the
32 grandparent had established a substantial relationship
33 with the child prior to the filing of the petition.

34 Sec. _____. Section 600A.10, Code 1987, is
35 repealed."

36 2. Title page, line 6, by inserting after the word
37 "rights" the following: "and for the granting of
38 grandparent visitation rights".

39 3. By renumbering as necessary.

S-3816

Filed April 24, 1987 ADOPTED

JIM LIND AL STURGEON
WALLY HORN TOM MANN, JR.
JACK HESTER CALVIN HULTMAN
RICHARD VARN EUGENE FRAISE
RAY TAYLOR PATRICK J. DELUHERY
LEE HOLT JOHN JENSEN

BY JULIA GENTLEMAN
DONALD V. DOYLE
DAVID M. READINGER
RICHARD DRAKE
C. JOSEPH COLEMAN
ROBERT M. CARR
LINN FUHRMAN

ADOPTED (y. 1526)

HOUSE FILE 567
AS AMENDED BY H-3409
FISCAL NOTE

REQUESTED BY REPRESENTATIVE CARPENTER

In compliance with a written request received March 27, 1987, a fiscal note for HF 567 AS AMENDED BY H-3409 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.

Amendment H-3409 to House File 567 establishes an adoption exchange to help place all children in adoptive homes. Special-needs children are placed on the registry, and then actively matched with appropriate adoptive families. Children not placed in Iowa within three months shall be placed on a national adoption registry.

Assumptions:

1. The adoption exchange is a program implemented by the Department of Human Services in 1985. It was funded through the Federal Adoption Opportunity Grant, as a pilot program. The grant will expire at the end of Fiscal year 1987 (June 30, 1987).
2. It is assumed that the federal grant will not be renewed for fiscal year 1988. Under current law, this program will not exist without further funding.
3. Cost for the operation of the national adoption exchange is dependent upon the number minutes of computer time used. It is assumed that \$2,500 will cover both the registration and operating costs, however the actual cost could vary depending on the actual use.
4. The following analysis is for amendment H-3409; any cost of House File 567 is not included.

	FY 1987	Fiscal Year 1988		Fiscal Year 1989	
	Current Law	Current Law	Proposed Law	Current Law	Proposed Law
<u>REVENUE</u>					
General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Federal Funds	26,015	0	0	0	0
Total	<u>\$26,015</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
<u>EXPENDITURES</u>					
Salaries	\$26,015	\$ 0	\$21,704	\$ 0	\$21,704
(FTE's)	(1.0)	(0)	(1.0)	(0)	(1.0)
Other	0	0	6,100	0	6,100
Total	<u>\$26,015</u>	<u>\$ 0</u>	<u>\$27,804</u>	<u>\$ 0</u>	<u>\$27,804</u>
NET EFFECT	<u>\$ 0</u>	<u>0</u>	<u>\$ -27,804</u>	<u>\$ 0</u>	<u>\$ -27,804</u>

Source: Department of Human Services

(LSB 2854H, CAR)

LED APRIL 1, 1987

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT BILL
REQUESTED BY ROSENBERG)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the permanency plan and placement of a child
2 in need of assistance.

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

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SUB COMMITTEE ASSIGNMENTS

CHAIR: *Brammer*
COMMITTEE: *Judiciary*
3/3/87

1 Section 1. NEW SECTION. 232.104 PERMANENCY HEARING.

2 1. As used in this section, "residual custody" means the
3 legal right of a parent, guardian, or other person to resume
4 or assume full care, custody, and control of a child upon
5 termination of child in need of assistance proceedings,
6 brought under this division.

7 2. When a dispositional order pursuant to section 232.102
8 has been in force for eighteen months or more, the court, upon
9 its own motion, or upon the request of the county attorney,
10 the child's attorney, or the child's parent, may hold a
11 hearing, subject to reasonable notice, to consider the issue
12 of the establishment of permanency for the child. The hearing
13 may be held concurrently with a hearing to review, modify,
14 substitute, or terminate a dispositional order.

15 During the permanency hearing, the court shall consider the
16 child's need for a secure and permanent placement in light of
17 any permanency plan or evidence submitted to the court. Upon
18 completion of the permanency hearing, the court shall make a
19 determination based upon the findings as to the permanency
20 plan which will best serve the child's individual interest.

21 3. Pursuant to its finding the court may enter a
22 permanency order which provides relief for the child based
23 upon the child's individual needs as determined by the court.
24 The following options are among those which the court may
25 employ in a permanency order:

26 a. A directive by the court to the county attorney or the
27 attorney for the child to initiate proceedings for termination
28 of the parent-child relationship.

29 b. An order to transfer guardianship and residual custody
30 from the parent or parents to a suitable person.

31 c. An order to transfer residual custody of the child from
32 one parent to another.

33 d. An order to provide long-term or foster care placement
34 for the child.

35 The permanency order may provide restrictions upon the

1 contact between the child and the child's parents consistent
2 with the child's best interests.

3 4. The provisions of sections 232.102 and 232.103
4 regarding periodic review, termination, modification,
5 vacation, and substitution of dispositional orders apply to a
6 placement of a child entered pursuant to a permanency order.
7 However, subsequent to entry of the permanency order, the
8 child shall not be returned to the care, custody, or control
9 the child's parents, over any objection by the child or the
10 child's guardian ad litem, unless the court finds by clear and
11 convincing evidence that the return would be in the individual
12 best interests of the child. Following entry of a permanency
13 order providing for long-term placement or foster care, the
14 duration of initial placement and the interval between review
15 hearings as required by section 232.102, subsection 6, shall
16 be twelve months.

17 5. Following entry of a permanency order which places a
18 child in the residual custody of another person, the court
19 shall retain jurisdiction to subsequently modify an order in
20 the child's best interests. The modification shall be
21 accomplished through a hearing procedure following reasonable
22 notice. During the hearing, all relevant and material
23 evidence shall be admitted and procedural due process shall be
24 provided to the parties.

25 EXPLANATION

26 This bill provides that the court, upon its own motion or
27 upon the request of the county attorney, the child's attorney,
28 or the child's parent, may hold a hearing to establish
29 permanency in placement of a child. Following the hearing,
30 the court may enter a permanency order which may include, as
31 relief for the child: initiation by the county attorney of
32 termination of parent-child relationship proceedings; transfer
33 of residual custody from the parent to a suitable person;
34 transfer of residual custody from one parent to another; and
35 an order to provide long-term or foster care placement for the

1 child. The permanency order may also provide restrictions
2 upon parent-child contact. Permanency orders are subject to
3 review, termination, modification, vacation, and substitution.
4 Subsequent to entry of a permanency order, a child is
5 restricted from return for care, custody, or control to the
6 child's parents unless the court finds the return to be in the
7 best interest of the child. The duration of initial placement
8 and the interval between review hearings is twelve months
9 following entry of a permanency order. The court retains
10 jurisdiction to modify the permanency order after a hearing
11 procedure when the order places the child in the residual
12 custody of another person.

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HOUSE FILE 567

AN ACT

RELATING TO PERMANENCY PLANNING FOR CHILDREN BY PROVIDING FOR DISPOSITIONAL AND PLACEMENT REVIEW HEARINGS FOR CERTAIN CHILDREN SUBJECT TO THE JURISDICTION OF THE JUVENILE COURT, BY AUTHORIZING PERMANENCY PLACEMENT ORDERS FOR CERTAIN CHILDREN IN NEED OF ASSISTANCE, BY MODIFYING CERTAIN GROUNDS AND PROCEDURES FOR THE TERMINATION OF PARENTAL RIGHTS AND FOR THE GRANTING OF GRANDPARENT VISITATION RIGHTS, AND BY ESTABLISHING AN ADOPTION EXCHANGE.

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

Section 1. Section 232.50, Code 1987, is amended to read as follows:

232.50 DISPOSITIONAL HEARING.

1. As soon as practicable following the entry of an order of adjudication pursuant to section 232.47, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

2. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to section 232.52, subsection 2, paragraph "d" or "e", to determine the future disposition status of the child. The hearings shall not be waived or continued beyond eighteen months after the last dispositional hearing or dispositional review hearing.

3. At that hearing dispositional hearings under this section all relevant and material evidence shall be admitted.

4. When the a dispositional hearing under this section is concluded the court shall enter an order to make any one or more of the dispositions authorized under section 232.52.

Sec. 2. Section 232.95, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If the court orders the child removed from the home pursuant to subsection 2, paragraph "a", the court shall hold a hearing to review the removal order within six months unless a dispositional hearing pursuant to section 232.99 has been held.

Sec. 3. Section 232.102, subsection 7, Code 1987, is amended to read as follows:

7. The duration of any placement made after an order pursuant to this section shall be for an initial period of six months. At the expiration of that period and every six months thereafter, the court shall hold a hearing and review the placement. An agency, facility, institution, or person to whom custody of the child has been transferred pursuant to this section shall file a written report with the court at least every six months concerning the status and progress of the child. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to this section in order to determine whether the child should be returned home, an extension of the placement should be made, a permanency hearing should be held, or a termination of the parent-child relationship proceeding should be instituted. The placement shall be terminated and the child returned to the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section 232.2, subsection 6. If the placement is extended, the court shall determine whether additional services are necessary to facilitate the return of the child to the child's home, and if the court determines such services are needed, the court shall order the provision of such services. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency responsible for the placement of the child shall consider placing the child in the same licensed foster care facility.

a. The initial dispositional review hearing shall not be waived or continued beyond six months after the date of the dispositional hearing.

b. Subsequent dispositional review hearings shall not be waived or continued beyond twelve months after the date of the most recent dispositional review hearing.

c. For purposes of this subsection, a hearing held pursuant to section 232.103 or 232.104 satisfies the requirements for initial or subsequent dispositional review.

Sec. 4. NEW SECTION. 232.104 PERMANENCY HEARING.

1. If custody of a child has been transferred for placement pursuant to section 232.102 for a period of twelve months, or if the prior legal custodian of a child has abandoned efforts to regain custody of the child, the court shall, on its own motion, or upon application by any interested party, hold a hearing to consider the issue of the establishment of permanency for the child.

Such a permanency hearing may be held concurrently with a hearing to review, modify, substitute, vacate, or terminate a dispositional order. Reasonable notice of a permanency hearing in a case of juvenile delinquency shall be provided pursuant to section 232.37. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the hearing the court shall enter written findings and make a determination based upon the permanency plan which will best serve the child's individual interests at that time.

2. After a permanency hearing the court shall do one of the following:

- a. Enter an order pursuant to section 232.102 to return the child to the child's home.
- b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order.
- c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings required by subsection 1, to do one of the following:

- (1) Transfer guardianship and custody of the child to a suitable person.
- (2) Transfer sole custody of the child from one parent to another parent.
- (3) Transfer custody of the child to a suitable person for the purpose of long-term care.
- (4) Order long-term foster care placement for the child in a licensed foster care home or facility.

3. Prior to entering a permanency order pursuant to subsection 2, paragraph "d", convincing evidence must exist showing that all of the following apply:

- a. A termination of the parent-child relationship would not be in the best interest of the child.
 - b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.
 - c. The child cannot be returned to the child's home.
4. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

5. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence, that returning the child to such custody would be in the best interest of the child.

6. Following the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When such order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the permanency hearing or the last review

hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

Sec. 5. Section 232.117, subsection 5, Code 1987, is amended to read as follows:

5. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the department of human services or the agency responsible for the placement shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. ~~The child's placement shall be reviewed by the court every six months until the child is adopted.~~

Sec. 6. Section 232.116, Code 1987, is amended to read as follows:

232.116 GROUND FOR TERMINATION.

1. Except as provided in subsection 6 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parents parent and the child on any of the following grounds:

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

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

3 c. The court finds that all of the following have occurred:

a- (1) One or both parents has have physically or sexually abused the child; and.

b- (2) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused as the result of the acts or omissions of the parent one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding; and.

c- (3) There is clear and convincing evidence that the parents were offered but refused services or failed to cooperate to correct the situation which led to the abuse or that the parents had received services to correct the situation which led to the abuse but the services did not correct the abusive situation.

4 d. The court finds that all of the following have occurred:

a- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96; and.

b- (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 and the placement has lasted for a period of at least six consecutive months; ~~but less than twelve consecutive months~~; and.

c- (3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102; and.

d- (4) There is clear and convincing evidence that the parents have not maintained contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

5 e. The court finds that all of the following have occurred:

a- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96; and.

b- (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months; and.

c- (3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.

4. The court finds that all of the following have occurred:

1. The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family.

(3) There is clear and convincing evidence that the child cannot be returned to or placed in the custody of the child's parents.

(4) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.

(5) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

2. In considering whether to terminate the rights of a parent under this section, the court shall give primary consideration to the physical, mental, and emotional condition and needs of the child. Such consideration may include any of the following:

a. Whether the parent's ability to provide the needs of the child is affected by the parent's mental capacity or mental condition or the parent's imprisonment for a felony.

b. For a child who has been placed in foster family care by a court or has been voluntarily placed in foster family care by a parent or by another person, whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family, and whether the foster family is able and willing to permanently integrate the child into the foster family. In considering integration into a foster family, the court shall review the following:

(1) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining that environment and continuity for the child.

(2) The reasonable preference of the child, if the court determines that the child has sufficient capacity to express a reasonable preference.

6 3. Notwithstanding the provisions of subsections 2 to 5 the court need not terminate the relationship between

parents the parent and child if the court finds any of the following:

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

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

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

d. It is necessary to place the child in a hospital, facility, or institution for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.

e. That the absence of a parent is due to the parent's admission or commitment to any institution, hospital, or health facility or due to active service in the state or federal armed forces.

Sec. 7. Section 232.117, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has not been placed for adoption shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed six months after the date of the termination of parental rights or the last placement review hearing.

NEW SUBSECTION. 7. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has been placed for adoption and whose adoption has not been finalized shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed twelve months after the date of the adoptive placement or the last placement review hearing.

Sec. 8. NEW SECTION. 232.119 ADOPTION EXCHANGE ESTABLISHED.

1. The purpose of this section is to facilitate the placement of all children in Iowa who are legally available for adoption through the establishment of an adoption exchange to help find adoptive homes for these children.

2. An adoption information exchange is established within the department to be operated by the department or by an individual or agency under contract with the department.

a. All special needs children under state guardianship shall be registered on the adoption exchange within sixty days of the termination of parental rights pursuant to section 232.117 or 600A.9 and assignment of guardianship to the commissioner.

b. Prospective adoptive families requesting a special needs child shall be registered on the adoption exchange upon receipt of an approved home study.

3. To register a child on the exchange, the adoption worker or agency shall submit all pertinent information concerning the child, a brief description and photo of the child, and other information needed to be compatible with the national adoption exchange. The exchange shall include a photo-listing book which shall be updated regularly. The adoption worker or agency which places a child on the exchange shall provide updated registration information within ten working days after a change in the information previously submitted occurs.

4. The exchange shall include a matching service for children registered or listed in the adoption photo-listing book and prospective adoptive families listed on the exchange. A child shall be registered with the national exchange if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

5. A request to defer registering the child on the exchange shall be granted if any of the following conditions exist:

- a. The child is in an adoptive placement.
- b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. The child needs diagnostic study or testing to clarify the child's problem and provide an adequate description of the problem.

d. The child is currently hospitalized and receiving medical care that does not permit adoptive placement.

e. The child is fourteen years of age or older and will not consent to an adoption plan and the consequences of not being adopted have been explained to the child.

Upon receipt of a valid written request for deferral pursuant to paragraphs "a" through "e", the exchange shall grant the deferral, except that a deferral based on paragraph "b" or "c" shall be granted for no more than a one-time ninety-day period.

Sec. 9. Section 598.35, Code 1987, is amended to read as follows:

598.35 GRANDPARENTS VISITATION RIGHTS.

The grandparents grandparent of a child may petition the district court for grandchild visitation rights when any of the following circumstances occur:

1. The parents of the child are divorced~~7-or~~.
2. A petition for dissolution of marriage has been filed by one of the parents of the child~~7-or~~.
3. The parent of the child, who is the child of the grandparents grandparent, has died~~7-or~~.
4. The child has been placed in a foster home.
5. The parents of the child are divorced, and the parent who is not the child of the grandparent has legal custody of the child, and the spouse of the child's custodial parent has been issued a final adoption decree pursuant to section 600.13.
6. The paternity of a child born out of wedlock is judicially established and the grandparent of the child is the parent of the father of the child and the mother of the child has custody of the child, or the grandparent of a child born out of wedlock is the parent of the mother of the child and custody has been awarded to the father of the child.

A petition for grandchild visitation rights shall be granted only upon a finding that the visitation is in the best interests of the child and that the grandparent had established a substantial relationship with the child prior to the filing of the petition.

Sec. 10. Section 600A.10, Code 1987, is repealed.

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 567, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 28, 1987

TERRY E. BRANSTAD
Governor ,