

*revised 5/87*

FILED MAY 07 1987

SENATE FILE 522  
BY COMMITTEE ON APPROPRIATIONS

Passed Senate, Date 5-10-87 (p. 1887) Passed House, Date 4/9/87 (p. 2366)  
Vote: Ayes 37 Nays 0 Vote: Ayes 53 Nays 35  
Approved May 27, 1987

**A BILL FOR**

1 An Act relating to juveniles, regarding children in need of  
2 services, the detention of juveniles in adult detention  
3 facilities, and penalties for violations of certain  
4 misdemeanors and ordinances.

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

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*SF 522*

1 Section 1. Section 232.2, Code 1987, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 6A. "Child in need of services" means a  
4 child who is voluntarily absent without permission from the  
5 child's home or placement for a period of time exceeding one  
6 week, or who is voluntarily absent without permission from the  
7 child's home or placement for a period of time exceeding  
8 twelve hours on each of three or more separate occasions in a  
9 twelve-month period, and whose health, safety, and welfare are  
10 at risk.

11 Sec. 2. Section 232.8, subsection 1, unnumbered paragraph  
12 3, Code 1987, is amended to read as follows:

13 Violations by a child of provisions of chapter 106, 106A,  
14 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be  
15 simple misdemeanors if committed by an adult, and violations  
16 of county or municipal curfew or traffic ordinances, and  
17 violations by a child of the provisions of section 123.47, are  
18 excluded from the jurisdiction of the juvenile court and shall  
19 be prosecuted as simple misdemeanors as provided by law. The  
20 court may advise appropriate juvenile authorities and may  
21 refer violations of section 123.47 to the juvenile court when  
22 there is reason to believe ~~that~~ the child regularly abuses  
23 alcohol and may be in need of treatment. The court shall  
24 notify the parents or legal guardians of a child that who  
25 appears before it for a violation of section 123.47.

26 Convicted child offenders shall be sentenced pursuant to  
27 section 903.1.

28 Sec. 3. Section 232.22, subsection 2, unnumbered paragraph  
29 1, Code 1987, is amended to read as follows:

30 A child may be placed in detention as provided in this  
31 section only in one of the following facilities only:

32 Sec. 4. Section 232.22, subsection 2, paragraphs a, b, and  
33 c, Code 1987, are amended to read as follows:

34 a. A juvenile detention home.

35 b. Any other suitable place designated by the court other

1 than a facility under paragraph "c".

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, and if all of the following apply:

6 (1) The child is at least fourteen sixteen years of age;  
7 and.

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

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

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

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

24 4. A child shall not be detained in a facility under  
25 subsection 2, paragraph "c" for a period of time in excess of  
26 twelve six hours without the oral or written order of a judge  
27 or a magistrate authorizing the detention. ~~When the detention~~  
28 ~~is authorized by an oral court order, the court shall enter a~~  
29 ~~written order before the end of the next day confirming the~~  
30 ~~oral order and indicating the reasons for the order. A judge~~  
31 or magistrate may authorize detention in a facility under  
32 subsection 2, paragraph "c" for a period of time in excess of  
33 six hours but less than twenty-four hours, excluding weekends  
34 and legal holidays, but only if all of the following occur or  
35 exist:

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

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

7 c. The facility has been certified by the department of  
8 corrections as being capable of sight and sound separation  
9 pursuant to sections 232.22 and 356.3.

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

12 Sec. 6. Section 232.44, subsections 1 and 3, Code 1987,  
13 are amended to read as follows:

14 1. A hearing shall be held within forty-eight hours,  
15 excluding Saturdays, Sundays, and legal holidays, of the time  
16 of the child's admission to a ~~detention~~-or shelter care  
17 facility, and within twenty-four hours, excluding Saturdays,  
18 Sundays, and legal holidays, of the time of a child's  
19 admission to a detention facility. If the hearing is not held  
20 within the time specified, the child shall be released from  
21 shelter care or detention. Prior to the hearing a petition  
22 shall be filed, except where the child is already under the  
23 supervision of a juvenile court under a prior judgment.

24 3. A notice shall be served upon the child, the child's  
25 attorney, the child's guardian ad litem if any, and the  
26 child's known parent, guardian, or custodian not less than  
27 ~~twenty-four~~ twelve hours before the time the hearing is  
28 scheduled to begin and in a manner calculated fairly to  
29 apprise the parties of the time, place, and purpose of the  
30 hearing. If the court finds that there has been reasonably  
31 diligent effort to give notice to a parent, guardian, or  
32 custodian and that the effort has been unavailing, the hearing  
33 may proceed without the notice having been served.

34 Sec. 7. NEW SECTION. 232.180 CHILD IN NEED OF SERVICES -  
35 - ADJUDICATION -- VIOLATION OF COURT ORDER.

1     1. This section shall be liberally construed in order to  
2 address the problems of the chronic runaway at the earliest  
3 stage possible, to provide early intervention through the  
4 delivery of services to the chronic runaway, and to exercise  
5 court jurisdiction which will best serve the interests of both  
6 the chronic runaway and the state.

7     2. The juvenile court shall have exclusive jurisdiction  
8 over proceedings alleging that a child is a child in need of  
9 services. Venue for child in need of service proceedings  
10 shall be determined in accordance with section 232.62.

11    3. A child in need of services proceeding shall be  
12 initiated by the filing of a petition alleging that a child is  
13 a child in need of services. A petition may be filed by the  
14 department of human services, a county attorney, or a juvenile  
15 court officer. However, a person having knowledge of the  
16 circumstances may file a complaint with the department, county  
17 attorney, or juvenile court officer alleging that a child is a  
18 child in need of services. The judge, county attorney, or  
19 juvenile court officer may authorize the filing of the  
20 petition without the payment of a filing fee. The petition  
21 shall be submitted in the form specified in section 232.36 and  
22 shall allege that the child has been voluntarily absent  
23 without permission from the child's home or placement for a  
24 period of time exceeding one week, or for a period of time  
25 exceeding twelve hours on each of three or more separate  
26 occasions in a twelve-month period, and that the child's  
27 health, safety, and welfare are at risk.

28    4. Upon the filing of a petition, the court shall appoint  
29 legal counsel for the child, and may appoint legal counsel for  
30 the child's parent, guardian, or custodian in accordance with  
31 section 232.89. The court may appoint a separate guardian ad  
32 litem if the legal counsel cannot properly represent the best  
33 interest of the child.

34    5. Upon the filing of a petition, the court shall fix a  
35 time and place for an adjudicatory hearing and give notice of

1 the time and place to the child and the child's parent,  
2 guardian, or custodian. The hearing and other proceedings  
3 conducted pursuant to this section shall be conducted in  
4 compliance with all applicable requirements of sections 232.90  
5 through 232.94A, and 232.96. The court may adjudicate the  
6 child as a child in need of services if the court finds that  
7 the child has been voluntarily absent without permission from  
8 the child's home or placement for a period of time exceeding  
9 one week, or for a period of time exceeding twelve hours on  
10 each of three or more separate occasions in a twelve-month  
11 period, and that the child's health, safety, and welfare are  
12 at risk. The court may order a physical or mental examination  
13 of the child, if the court finds that such an examination is  
14 necessary to determine the child's physical or mental  
15 condition. The examination shall be conducted in accordance  
16 with the applicable requirements of section 232.98.

17 6. If the court adjudicates the child as a child in need  
18 of services, the court shall, as soon as practicable, hold a  
19 dispositional hearing unless waived by the parties. Prior to  
20 the hearing the court shall require a social investigation to  
21 be conducted and a social report to be submitted to the court  
22 in accordance with the applicable requirements of section  
23 232.97. The social report shall include a review of factors  
24 and reasons for the child's absence without permission from  
25 the child's home or placement. The social investigation and  
26 report requirement may be waived by the parties if a recent  
27 social report prepared in connection with a child in need of  
28 assistance proceeding is on file with the court.

29 7. The dispositional hearing shall be held in accordance  
30 with the applicable requirements of section 232.99. The court  
31 may impose any disposition set out in section 232.100 through  
32 232.102, and may terminate, modify, or vacate the  
33 dispositional order as provided in section 232.103. However,  
34 the court shall not order the child placed in the Iowa  
35 juvenile home. The court order shall notify the child and the

1 child's legal counsel that the child's willful absence from  
2 placement in violation of a condition of the court order could  
3 subject the child to placement in shelter care.

4 8. A child found in violation of a condition of a valid  
5 court order imposed under this section shall not be considered  
6 a delinquent. However, a child accused of being willfully  
7 absent from placement in violation of a condition of a valid  
8 court order under this section may be held in shelter care if  
9 a court determines within twenty-four hours of placement that  
10 probable cause exists to believe that the child violated the  
11 condition of the valid court order. If shelter care is  
12 authorized by an oral court order, the court shall enter a  
13 written order before the end of the next day confirming the  
14 oral order and indicating the reasons for the order. If the  
15 court determines that probable cause exists, the child may be  
16 held in shelter care pending a violation hearing which shall  
17 be held within seventy-two hours of placement in shelter care,  
18 excluding nonjudicial days. The hearing shall be conducted in  
19 compliance with all applicable requirements of sections 232.90  
20 through 232.94A, and 232.96. Pursuant to the hearing, the  
21 court may order the child held in shelter care if the court  
22 finds that the child was willfully absent from the placement  
23 in violation of a condition of a valid court order, that all  
24 applicable due process rights were afforded the child, and  
25 that no less restrictive alternative placement appropriate to  
26 the needs of the child and the community exists. However, the  
27 court shall not order the child placed in the Iowa juvenile  
28 home and shall not place the child in shelter care for more  
29 than a total of forty-five days, and shall not place the child  
30 in shelter care, which includes reasonable restrictions  
31 necessary to ensure the child's continued custody through  
32 staff security measures, for more than a total of thirty days.

33 9. The juvenile court may concurrently conduct proceedings  
34 under this section and proceedings under division III or IV of  
35 this chapter.

1     Sec. 8. Section 805.1, Code 1987, is amended by adding the  
2 following new subsection:

3     NEW SUBSECTION. 8. A peace officer shall issue a citation  
4 in lieu of arrest to a person under eighteen years of age  
5 accused of violating a simple misdemeanor under the provisions  
6 of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or  
7 321G, and shall not detain or confine the person in a facility  
8 regulated under chapter 356 or 356A.

9     Sec. 9. Section 903.1, Code 1987, is amended to read as  
10 follows:

11     903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.

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

18     a. For a simple misdemeanor, imprisonment not to exceed  
19 thirty days, or a fine not to exceed one hundred dollars.

20     b. For a serious misdemeanor, imprisonment not to exceed  
21 one year, or a fine not to exceed one thousand dollars, or  
22 both.

23     2. When a person is convicted of an aggravated  
24 misdemeanor, and a specific penalty is not provided for, the  
25 maximum penalty shall be imprisonment not to exceed two years,  
26 or a fine not to exceed five thousand dollars, or both. When  
27 a judgment of conviction of an aggravated misdemeanor is  
28 entered against any person and the court imposes a sentence of  
29 confinement for a period of more than one year the term shall  
30 be an indeterminate term.

31     3. A person under eighteen years of age convicted of a  
32 simple misdemeanor under chapter 106, 106A, 109, 109A, 110,  
33 110A, 110B, 111, 321, or 321G, or a violation of a county or  
34 municipal curfew or traffic ordinance, may be required to pay  
35 a fine, not to exceed one hundred dollars, as fixed by the

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

3 The criminal penalty surcharge required by section 911.2  
4 shall be added to a fine imposed on a misdemeanor, and is not  
5 a part of or subject to the maximums set in this section.

6 EXPLANATION

7 This bill provides that a child can only be detained in an  
8 adult detention facility if detained separately from adults,  
9 and if the child is accused of committing a felony, is at  
10 least 16 years old, and is dangerous to others or to the  
11 property of others. If a child is eligible for detention in  
12 an adult facility, the detention cannot exceed six hours in  
13 certain high population density areas or 24 hours in low  
14 population certain density areas.

15 A hearing is required to be held within twenty-four hours  
16 of the time of the child's admission to detention, rather than  
17 forty-eight hours. The notice to be served upon the child,  
18 the child's attorney, the child's guardian ad litem, and the  
19 child's known parent, is required to occur not less than  
20 twelve hours before the hearing regarding admission to  
21 detention or to a shelter care facility, rather than twenty-  
22 four hours.

23 The bill provides that simple misdemeanants who are  
24 juveniles not subject to juvenile court jurisdiction, are to  
25 be issued a citation in lieu of arrest and sentenced only to  
26 perform community service or to pay a monetary fine.

27 The bill also provides for proceedings for children in need  
28 of services.

29 The bill defines "child in need of services".

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STATE OF IOWA  
FISCAL NOTE TO  
 SENATE FILE 522

LSB No. 2991S.3  
 Staff ID. SJT

BY SENATOR WELSH

In compliance with a written request received May 9, 1987, a fiscal note for SENATE FILE 522 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.

Bill Summary

Section 1 serves to define "Child in Need of Services" (CINS).

Section 3 is a technical language change with no administrative or fiscal impact to the state or to counties.

Sections 2, 4, 5, 6, 8, and 9 serves to set out due process for juvenile placements in secure facilities and conditions for using adult jails for the detention of minors (referred to as jail alternatives).

Section 7 sets out due process for the adjudication of a minor as a Child In Need of Services (CINS).

Fiscal Impact

Without passage of the jail alternative provisions (sections 2, 4, 5, 6, 8, 9), the counties may lose \$500,000 in federal aid currently being expended to fund alternatives to jailing a minor in an adult facility.

Although a source of revenue may develop by the use of issuing citations to minors having committed minor offences (section 8), the amount of this revenue cannot be reasonably estimated but is expected to generate less than \$10,000 per year. No amount has been included in the following fiscal summaries relating to the use of these citations.

County expenditures listed below are in addition to current expenditures for detention of minors.

Jail Alternatives      The data used to estimate the impact of jail alternatives is based on fiscal year 1985 Criminal and Juvenile Justice Planning Agency data. Of the 3,450 minors held in adult jails in FY85, an estimated 90.6% (3,125) of these minors would need alternative placements or procedures in order to comply with HF 657. It is further estimated that of these 3,125 minors, 70% may require additional staff time with no other services, 10% may require in-home monitoring and supervision, 10% may require shelter care or emergency foster care, while the remaining 10% may require detention services which are presently the responsibility of the counties.

The following sets out the projected cost estimates for jail alternatives.

STATE OF IOWA  
FISCAL NOTE

LSB No. 2991S.3  
Staff ID: SJT

IN pg. 2

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* The costs for extra staff time needed for processing 2,160 cases cannot be estimated but appears not to require a substantial outlay of funds.			
* In-Home Supervision:			
(DHS:County Based)	109 cases X one day	X \$75/day	= 8,175
	230 cases X three days	X \$75/day	= 51,750
* Shelter Care:			
(DHS:Foster Care)	109 cases X one day	X \$51.50/day	= 5,614
	204 cases X three days	X \$51.50/day	= 31,518
* Transportation:			
(DHS:County Based)	500 cases X 2 ways	X 80 miles X .21/mile	= 16,800
* Juvenile Detention:			
(County Expense)	109 cases X one day	X \$110.00/day	= 11,990
	204 cases X three days	X \$110.00/day	= 67,320
			-----
Jail Alternatives Estimated Cost			\$193,167
			=====

Children In Need of Services (CINS). It is assumed that the establishment of CINS will result in 250 to 500 cases coming before the juvenile court. Of these, 50% are currently handled as Children In Need of Assistance (CINA) cases and assuming that these would continue to be handled as in the past, these cases would present no new or additional costs to the juvenile system. The remaining 50% (125-250) of cases are assumed to be adjudicated CINS would then need case management, placement, and attorney fees all of which present new demands for funding.

The following sets out the cost estimates for establishing CINS.

DHS

* Family Centered Services:			
	35 cases X \$420/month	X 6 months	= 88,200
* Foster Care:			
Family	19 cases X \$340/month	X 6 months	= 38,760
Group	9 cases X \$1850/mo.	X 6 months	= 99,900
Shelter Pre-Adjud.	22 cases X \$60/day	X 5 days	= 6,600
Shelter Post-Adjud.	22 cases X \$60/day	X 14 days	= 18,480
* Field Operations:			
Pre-Adjud. Svcs	27 cases X \$3/day	X 7 days	= 567
Case Management	53 cases X \$85/month	X 6 months	= 27,030
Supervision	16 cases X \$84/month	X 6 months	= 8,064

Judicial Department

* County Based:			
Attorney Fees	90 cases X \$50/hour	X 10 hours	= 45,000
* Juvenile Court Operations:			
Juvenile Officers	--	--	= 35,661

STATE OF IOWA  
FISCAL NOTE

LSB No. 2991S.3  
Staff ID. SJT

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CINS Total Cost Estimate

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\$368,262  
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Fiscal Summary. The table below details the fiscal estimate of Senate File 522 on an annual basis. All costs are in addition to current budgeted expenditures. The \$500,000 of federal funds that are at-risk because of non-passage of the jail alternative section are not shown in the table below but would be shown as a loss of current funds under Costs to Counties.

Summary of Costs for SENATE FILE 522

Topics in SF 522:	JAIL ALTERNATIVES	CINS	TOTAL COSTS
	-----	-----	-----
Judicial Department:			
Attorney Fees	0	45,000	45,000
Judicial Officers	****	35,661	35,661
DHS:			
County Based	69,165	0	69,165
Family Centered Svcs	0	88,200	88,200
Foster Care	37,132	163,740	200,872
Field Operations	0	35,661	35,661
	-----	-----	-----
COSTS TO STATE	106,297	368,262	474,559
	-----	-----	-----
COSTS TO COUNTIES	79,310	0	79,310
	-----	-----	-----
COSTS TO ALL SOURCES:	185,607	368,262	\$ 553,869
	=====	=====	=====

\*\*\*\* : unable to estimate

SOURCES: Department of Human Services  
Judicial Department  
Criminal and Juvenile Justice Planning Agency

(LSB 2991S-3, SJT)

*William C. Proctor*  
Fiscal Director  
Legislative Fiscal Bureau  
Date: 5/9/87

SENATE FILE 522

4112

1 Amend Senate File 522 as follows:

2 1. Page 1, by striking lines 1 through 10.

3 2. Page 1, by striking lines 26 and 27 and

4 inserting the following: "A child convicted of a

5 violation under this paragraph shall be sentenced

6 pursuant to section 903.1, subsection 3."

7 3. By striking page 3, line 34 through page 6,

8 line 35.

9 4. Page 8, by inserting after line 5, the  
10 following:

11 "Sec. \_\_\_\_\_. The legislative council shall create an  
12 interim study committee to review the problem of  
13 runaways. The interim study committee shall be  
14 composed of legislative members and shall make its  
15 report to the legislative council and general assembly  
16 meeting in January, 1988."

17 5. By renumbering as necessary.

S-4112

Filed May 9, 1987

ADOPTED (p. 1887) EUGENE S. FRAISE  
TOM MANN, JR.

BY JULIA GENTLEMAN

DONALD V. DOYLE

C. JOSEPH COLEMAN

SENATE FILE 522  
BY COMMITTEE ON APPROPRIATIONS

(AS AMENDED AND PASSED BY THE SENATE MAY 10, 1987)

\_\_\_\_\_ - New Language by the Senate  
\* - Language Stricken by the Senate

Passed Senate, Date 5/10/87 (p. 1887) Passed House, Date 4/7/87 (p. 2366)  
Vote: Ayes 27 Nays 0 Vote: Ayes 53 Nays 35  
Approved May 27, 1987

A BILL FOR

1 An Act relating to juveniles, regarding children in need of  
2 services, the detention of juveniles in adult detention  
3 facilities, and penalties for violations of certain  
4 misdemeanors and ordinances.

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

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\* 1 Section 1. Section 232.8, subsection 1, unnumbered  
2 paragraph 3, Code 1987, is amended to read as follows:  
3 Violations by a child of provisions of chapter 106, 106A,  
4 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be  
5 simple misdemeanors if committed by an adult, and violations  
6 of county or municipal curfew or traffic ordinances, and  
7 violations by a child of the provisions of section 123.47, are  
8 excluded from the jurisdiction of the juvenile court and shall  
9 be prosecuted as simple misdemeanors as provided by law. The  
10 court may advise appropriate juvenile authorities and may  
11 refer violations of section 123.47 to the juvenile court when  
12 there is reason to believe ~~that~~ the child regularly abuses  
13 alcohol and may be in need of treatment. The court shall  
14 notify the parents or legal guardians of a child ~~that~~ who  
15 appears before it for a violation of section 123.47. A child  
16 convicted of a violation under this paragraph shall be  
17 sentenced pursuant to section 903.1, subsection 3.

18 Sec. 2. Section 232.22, subsection 2, unnumbered paragraph  
19 1, Code 1987, is amended to read as follows:

20 A child may be placed in detention as provided in this  
21 section only in one of the following facilities only:

22 Sec. 3. Section 232.22, subsection 2, paragraphs a, b, and  
23 c, Code 1987, are amended to read as follows:

24 a. A juvenile detention home.

25 b. Any other suitable place designated by the court other  
26 than a facility under paragraph "c".

27 c. A room in a facility intended or used for the detention  
28 of adults if there is probable cause to believe that the child  
29 has committed a delinquent act which if committed by an adult  
30 would be a felony, and if all of the following apply:

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

33 (2) The child has shown by the child's conduct, habits, or  
34 condition that the child constitutes an immediate and serious  
35 ~~danger to the child's self or~~ to another, or to the property

1 of another, and a facility or place enumerated in paragraph  
2 "a" or "b" ~~of this subsection~~ is unavailable, or the court  
3 determines that the child's conduct or condition endangers the  
4 safety of others in the facility; ~~and~~.

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

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

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

14 4. A child shall not be detained in a facility under  
15 subsection 2, paragraph "c" for a period of time in excess of  
16 twelve six hours without the oral or written order of a judge  
17 or a magistrate authorizing the detention. ~~When the detention~~  
18 ~~is authorized by an oral court order, the court shall enter a~~  
19 ~~written order before the end of the next day confirming the~~  
20 ~~oral order and indicating the reasons for the order.~~ A judge  
21 or magistrate may authorize detention in a facility under  
22 subsection 2, paragraph "c" for a period of time in excess of  
23 six hours but less than twenty-four hours, excluding weekends  
24 and legal holidays, but only if all of the following occur or  
25 exist:

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

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

32 c. The facility has been certified by the department of  
33 corrections as being capable of sight and sound separation  
34 pursuant to sections 232.22 and 356.3.

35 d. The child is awaiting an initial hearing before the

1 court pursuant to section 232.44.

2 Sec. 5. Section 232.44, subsections 1 and 3, Code 1987,  
3 are amended to read as follows:

4 1. A hearing shall be held within forty-eight hours,  
5 excluding Saturdays, Sundays, and legal holidays, of the time  
6 of the child's admission to a ~~detention-or~~ shelter care  
7 facility, and within twenty-four hours, excluding Saturdays,  
8 Sundays, and legal holidays, of the time of a child's  
9 admission to a detention facility. If the hearing is not held  
10 within the time specified, the child shall be released from  
11 shelter care or detention. Prior to the hearing a petition  
12 shall be filed, except where the child is already under the  
13 supervision of a juvenile court under a prior judgment.

14 3. A notice shall be served upon the child, the child's  
15 attorney, the child's guardian ad litem if any, and the  
16 child's known parent, guardian, or custodian not less than  
17 twenty-four twelve hours before the time the hearing is  
18 scheduled to begin and in a manner calculated fairly to  
19 apprise the parties of the time, place, and purpose of the  
20 hearing. If the court finds that there has been reasonably  
21 diligent effort to give notice to a parent, guardian, or  
22 custodian and that the effort has been unavailing, the hearing  
\* 23 may proceed without the notice having been served.

24 Sec. 6. Section 805.1, Code 1987, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 8. A peace officer shall issue a citation  
27 in lieu of arrest to a person under eighteen years of age  
28 accused of violating a simple misdemeanor under the provisions  
29 of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or  
30 321G, and shall not detain or confine the person in a facility  
31 regulated under chapter 356 or 356A.

32 Sec. 7. Section 903.1, Code 1987, is amended to read as  
33 follows:

34 903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.

35 1. When a person eighteen years of age or older is

1 convicted of a simple or serious misdemeanor and a specific  
2 penalty is not provided for, the court shall determine the  
3 sentence, and shall fix the period of confinement or the  
4 amount of fine, if such be the sentence, within the following  
5 limits:

6 a. For a simple misdemeanor, imprisonment not to exceed  
7 thirty days, or a fine not to exceed one hundred dollars.

8 b. For a serious misdemeanor, imprisonment not to exceed  
9 one year, or a fine not to exceed one thousand dollars, or  
10 both.

11 2. When a person is convicted of an aggravated  
12 misdemeanor, and a specific penalty is not provided for, the  
13 maximum penalty shall be imprisonment not to exceed two years,  
14 or a fine not to exceed five thousand dollars, or both. When  
15 a judgment of conviction of an aggravated misdemeanor is  
16 entered against any person and the court imposes a sentence of  
17 confinement for a period of more than one year the term shall  
18 be an indeterminate term.

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

26 The criminal penalty surcharge required by section 911.2  
27 shall be added to a fine imposed on a misdemeanant, and is not  
28 a part of or subject to the maximums set in this section.

29 Sec. 8. The legislative council shall create an interim  
30 study committee to review the problem of runaways. The  
31 interim study committee shall be composed of legislative  
32 members and shall make its report to the legislative council  
33 and general assembly meeting in January, 1988.

34  
35

SENATE FILE 522

AN ACT

RELATING TO JUVENILES, REGARDING CHILDREN IN NEED OF SERVICES,  
THE DETENTION OF JUVENILES IN ADULT DETENTION FACILITIES,  
AND PENALTIES FOR VIOLATIONS OF CERTAIN MISDEMEANORS AND  
ORDINANCES.

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

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

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 that the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child that who appears before it for a violation of section 123.47. A child convicted of a violation under this paragraph shall be sentenced pursuant to section 903.1, subsection 3.

Sec. 2. Section 232.22, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A child may be placed in detention as provided in this section only in one of the following facilities only:

Sec. 3. Section 232.22, subsection 2, paragraphs a, b, and c, Code 1987, are amended to read as follows:

a. A juvenile detention home.

b. Any other suitable place designated by the court other than a facility under paragraph "c".

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, and if all of the following apply:

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

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

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

(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.

Sec. 4. Section 232.22, subsection 4, Code 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 twelve six hours without the oral or written order of a judge or a magistrate authorizing the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. 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 sections 232.22 and 356.3.

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

Sec. 5. Section 232.44, subsections 1 and 3, Code 1987, are amended to read as follows:

1. A hearing shall be held within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of the time of the child's admission to a detention or shelter care facility, and within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, of the time of a child's admission to a detention facility. If the hearing is not held within the time specified, the child shall be released from shelter care or detention. Prior to the hearing a petition shall be filed, except where the child is already under the supervision of a juvenile court under a prior judgment.

3. A notice shall be served upon the child, the child's attorney, the child's guardian ad litem if any, and the child's known parent, guardian, or custodian not less than twenty-four twelve hours before the time the hearing is scheduled to begin and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian, or custodian and that the effort has been unavailing, the hearing may proceed without the notice having been served.

Sec. 6. Section 805.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A peace officer shall issue a citation in lieu of arrest to a person under eighteen years of age accused of violating a simple misdemeanor under the provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

Sec. 7. Section 903.1, Code 1987, is amended to read as follows:

903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.

1. When a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for, 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:

a. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

b. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. 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, or a violation of a county or municipal curfew or traffic ordinance, 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.

The criminal penalty surcharge required by section 911.2 shall be added to a fine imposed on a misdemeanor, and is not a part of or subject to the maximums set in this section.

Sec. 8. The legislative council shall create an interim study committee to review the problem of runaways. The interim study committee shall be composed of legislative members and shall make its report to the legislative council and general assembly meeting in January, 1988.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 522, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved May 27, 1987

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TERRY E. BRANSTAD  
Governor

**SF 522**