

(P. 955) 3/31/94 Referred from Approp. Colorado  
to Education  
(P. 973) 3/31/94 Amend/Do Pass W/ S- 5399

FILED MAR 30 1994

SENATE FILE 2319  
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SF 2305)

Passed Senate, Date 4/4/94 (p. 996) Passed House, Date 4/12/94  
Vote: Ayes 49 Nays 0 Vote: Ayes 82 Nays 14

Approved May 12, 1994 Senate

Senate Conf. Comm.  
McNeal, Martin, Rapperty  
Brammer, Linn

A BILL FOR

1 An Act relating to juvenile justice by providing in-service  
2 training requirements for law enforcement officers;  
3 prohibiting the purchase of alcoholic liquor, wine, or beer by  
4 juveniles and imposing a penalty; imposing a scheduled fine  
5 against persons holding liquor licenses for allowing persons  
6 under legal drinking age to obtain or consume alcoholic  
7 beverages; providing concurrent jurisdiction for magistrates  
8 over juveniles who possess or purchase alcoholic beverages;  
9 authorizing detention hearings to be held in the county in  
10 which the juvenile is detained; subjecting a juvenile to  
11 permanent waiver to the district court after conviction for an  
12 aggravated misdemeanor committed against a person; providing  
13 for the suspension of the motor vehicle license or operating  
14 privilege of a juvenile for two or more delinquent acts  
15 involving alcoholic beverages or controlled substances;  
16 providing that the juvenile court may require parental or  
17 guardian involvement in the probation plan for a juvenile and  
18 permit grandparent involvement in child in need of assistance  
19 proceedings; changing the requirements for terminating  
20 parental rights in certain circumstances; providing for the  
21 retention of fingerprint and photograph records of juveniles  
22 over fourteen years of age; establishing a community grant

1 fund for juvenile crime prevention programs; encouraging the  
2 adoption of alternative options educational programs by school  
3 districts and authorizing the use of phase III moneys for the  
4 development of certain instructional programs; providing that  
5 a juvenile not attending school or other educational program  
6 or working at least twenty hours per week shall not receive a  
7 motor vehicle license; authorizing a truancy mediator to refer  
8 a truant to juvenile court; making changes to the manner in  
9 which associate juvenile judge decisions are appealed;  
10 increasing parental financial responsibility for the acts of  
11 children; creating new weapons offenses and establishing or  
12 enhancing penalties for weapons offenses; enhancing penalties  
13 for child endangerment; providing for searches of student  
14 lockers without advance notice under certain circumstances;  
15 establishing a parenting pilot project; and making  
16 appropriations.

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

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1 Section 1. Section 80B.11, subsection 3, Code Supplement  
2 1993, is amended by adding the following new unnumbered  
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. In-service training under this  
5 section shall include the requirement that all law enforcement  
6 officers complete a course involving expanded racial and  
7 cultural awareness training and dealing with gang-affected  
8 youth.

9 Sec. 2. Section 123.47, Code 1993, is amended to read as  
10 follows:

11 123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

12 A person shall not sell, give, or otherwise supply  
13 alcoholic liquor, wine, or beer to any person knowing or  
14 having reasonable cause to believe that person to be under the  
15 age of eighteen, and a person or persons under the age of  
16 eighteen shall not purchase, or individually or jointly have  
17 alcoholic liquor, wine, or beer in their possession or  
18 control; except in the case of liquor, wine, or beer given or  
19 dispensed to a person under the age of eighteen within a  
20 private home and with the knowledge and consent of the parent  
21 or guardian for beverage or medicinal purposes or as  
22 administered to the person by either a physician or dentist  
23 for medicinal purposes and except to the extent that a person  
24 under the age of eighteen may handle alcoholic beverages,  
25 wine, and beer during the regular course of the person's  
26 employment by a liquor control licensee, or wine or beer  
27 permittee under this chapter. A person, other than a licensee  
28 or permittee, who violates this section regarding the purchase  
29 of alcoholic liquor, wine, or beer shall pay a twenty-five  
30 dollar penalty.

31 Sec. 3. Section 123.49, subsection 2, paragraph h, Code  
32 1993, is amended to read as follows:

33 h. Sell, give, or otherwise supply any alcoholic beverage,  
34 wine, or beer to any person, knowing or having-reasonable  
35 cause-to-believe-the-person-to-be failing to exercise

1 reasonable care to ascertain whether the person is under legal  
2 age, or permit any person, knowing or having-reasonable-cause  
3 to-believe-the-person-to-be failing to exercise reasonable  
4 care to ascertain whether the person is under legal age, to  
5 consume any alcoholic beverage, wine, or beer.

6 Sec. 4. Section 123.50, subsection 1, Code Supplement  
7 1993, is amended to read as follows:

8 1. Any person who violates any of the provisions of  
9 section 123.49, except subsection 2, paragraph "h", shall be  
10 guilty of a simple misdemeanor. A person who violates section  
11 123.49, subsection 2, paragraph "h", commits a simple  
12 misdemeanor punishable as a scheduled violation under section  
13 805.8, subsection 10, paragraph "b".

14 Sec. 5. Section 232.8, subsection 1, Code 1993, is amended  
15 by adding the following new paragraph:

16 NEW PARAGRAPH. c. The juvenile court or a magistrate may  
17 preside over an action regarding a violation of section 123.47  
18 committed by a child.

19 Sec. 6. Section 232.44, subsection 1, Code 1993, is  
20 amended by adding the following new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. If the child is placed in a  
22 detention facility in a county other than the county in which  
23 the child resides or in which the delinquent act allegedly  
24 occurred but which is within the same judicial district, the  
25 hearing may take place in the county in which the detention  
26 facility is located.

27 Sec. 7. Section 232.45A, subsection 2, Code 1993, is  
28 amended to read as follows:

29 2. Once a child sixteen years of age or older has been  
30 waived to and convicted of an aggravated misdemeanor committed  
31 against a person or a forcible felony or a felony violation of  
32 section 124.401 or chapter 707 by the district court, all  
33 criminal proceedings against the child for any forcible-felony  
34 or-a-felony-violation-of-section-124-401-or-chapter-707  
35 aggravated misdemeanor or felony occurring subsequent to the

1 date of the conviction of the child shall begin in district  
2 court, notwithstanding sections 232.8 and 232.45. A copy of  
3 the findings required by section 232.45, subsection 8, shall  
4 be made a part of the record in the district court  
5 proceedings.

6 Sec. 8. Section 232.45A, subsection 3, Code 1993, is  
7 amended to read as follows:

8 3. If proceedings against a child for an aggravated  
9 misdemeanor committed against a person or a forcible felony or  
10 a felony violation of section 124.401 or chapter 707 who has  
11 previously been waived to and convicted of such an offense by  
12 the district court are mistakenly begun in the juvenile court,  
13 the matter shall be transferred to district court upon the  
14 discovery of the prior waiver and conviction, notwithstanding  
15 sections 232.8 and 232.45.

16 Sec. 9. Section 232.52, subsection 2, paragraph a, Code  
17 1993, is amended by adding the following new subparagraph:

18 NEW SUBPARAGRAPH. (4) The suspension of the motor vehicle  
19 license or operating privilege of the child for the commission  
20 of two or more delinquent acts which are a violation of  
21 section 123.46, section 123.47 regarding the purchase of or  
22 attempt to purchase alcoholic beverages, or chapter 124, for a  
23 period of one year or until the child reaches the age of  
24 eighteen, whichever is longer. The child may be issued a  
25 temporary restricted license if the child is otherwise  
26 eligible.

27 Sec. 10. Section 232.52, subsection 2, paragraph c, Code  
28 1993, is amended by adding the following new unnumbered  
29 paragraph:

30 NEW UNNUMBERED PARAGRAPH. A parent or guardian may be  
31 required by the juvenile court to participate in educational  
32 or treatment programs as part of a probation plan if the court  
33 determines it to be in the best interest of the child. A  
34 parent or guardian who does not participate in the probation  
35 plan when required to do so by the court may be held in

1 contempt.

2 Sec. 11. NEW SECTION. 232.91A GRANDPARENT INVOLVEMENT IN  
3 PROCEEDINGS.

4 The court, upon petition, may permit a grandparent of a  
5 child subject to judicial proceedings under this division to  
6 participate in the proceedings.

7 Sec. 12. Section 232.116, subsection 1, paragraph h, Code  
8 Supplement 1993, is amended to read as follows:

9 h. The court finds that ~~both~~ all of the following have  
10 occurred:

11 (1) The child meets the definition of child in need of  
12 assistance based on a finding of physical or sexual abuse or  
13 neglect as a result of the acts or omissions of one or both  
14 parents.

15 (2) There is clear and convincing evidence that the  
16 ~~circumstances-surrounding the abuse or neglect of-the-child,~~  
17 ~~despite-the-receipt-of-services,-constitutes-imminent-danger~~  
18 to posed or poses a severe and significant risk to the health  
19 and safety of the child.

20 (3) There is clear and convincing evidence that the offer  
21 or receipt of services will not correct the conditions which  
22 led to the abuse or neglect within a reasonable period of  
23 time.

24 Sec. 13. Section 232.148, Code 1993, is amended to read as  
25 follows:

26 232.148 FINGERPRINTS -- PHOTOGRAPHS.

27 1. Except as provided in this section, a child shall not  
28 be fingerprinted or photographed by a criminal justice agency  
29 after the child is taken into custody.

30 2. Fingerprints and photographs of a child who has been  
31 taken into custody and who is fourteen years of age or older  
32 may be taken and filed by a criminal justice agency  
33 investigating the commission of a public offense constituting  
34 a-felony other than a simple or serious misdemeanor. However,  
35 ~~fingerprint-and-photograph-files-of-a-child-who-enters-into-an~~

1 ~~informal-adjustment-or-consent-decree-shall-be-retained-only~~  
2 ~~if-the-child-is-notified-at-the-time-of-entering-into-the~~  
3 ~~informal-adjustment-or-consent-decree-that-the-files-will-be~~  
4 ~~permanently-retained-by-the-criminal-justice-agency.~~ The  
5 criminal justice agency shall forward the fingerprints to the  
6 department of public safety for inclusion in the automated  
7 fingerprint identification system. However, unless otherwise  
8 authorized pursuant to section 232.45A or 690.4, or as  
9 otherwise authorized by law, a criminal history record shall  
10 not be created for inclusion in an automated system due to the  
11 retention of fingerprints pursuant to this section.

12 3. If a peace officer has reasonable grounds to believe  
13 that latent fingerprints found during the investigation of the  
14 commission of a public offense are those of a particular  
15 child, fingerprints of the child may be taken for immediate  
16 comparison with the latent fingerprints regardless of the  
17 nature of the offense. ~~If-the-comparison-is-negative-the~~  
18 ~~fingerprint-card-and-other-copies-of-the-fingerprints-taken~~  
19 ~~shall-be-immediately-destroyed.~~ If the comparison is positive  
20 ~~and-the-child-is-referred-to-the-court,~~ the fingerprint card  
21 and other copies of the fingerprints taken shall be delivered  
22 to the ~~court-for-disposition~~ division of criminal  
23 investigation of the department of public safety in the manner  
24 and on the forms prescribed by the commissioner of public  
25 safety within two working days of the time the fingerprints  
26 are taken. ~~If-the-child-is-not-referred-to-the-court,-the~~  
27 ~~fingerprint-card-and-copies-of-the-fingerprints-shall-be~~  
28 ~~immediately-destroyed.~~

29 4. ~~Fingerprint-and-photograph-files-of-children-shall-be~~  
30 ~~kept-separate-from-those-of-adults.--Copies-of-fingerprints~~  
31 ~~and-photographs-of-a-child-shall-not-be-placed-in-any-data~~  
32 ~~storage-system-established-and-maintained-by-the-department-of~~  
33 ~~public-safety-pursuant-to-chapter-692,-or-in-any-federal~~  
34 ~~depository-for-fingerprints.~~

35 5. Fingerprint and photograph files of children may be

1 inspected by peace officers when necessary for the discharge  
2 of their official duties. The juvenile court may authorize  
3 other inspections of such files in individual cases upon a  
4 showing that inspection is necessary in the public interest.

5 6 5. Fingerprints and photographs of a child shall be  
6 removed from the file and destroyed ~~if~~ upon notification to  
7 the department that any of the following situations apply:

8 a. A petition alleging the child to be delinquent is not  
9 filed and the child has not entered into an informal  
10 adjustment, admitting involvement in a delinquent act alleged  
11 in the complaint.

12 b. After a petition is filed, the petition is dismissed or  
13 the proceedings are suspended and the child has not entered  
14 into a consent decree and has not been adjudicated delinquent  
15 on the basis of a delinquent act other than one alleged in the  
16 petition in question.

17 c. Upon petition by the child when the child reaches  
18 twenty-one years of age and the child has not been adjudicated  
19 ~~a delinquent nor convicted of committing an aggravated~~  
20 ~~misdemeanor or a felony after reaching sixteen years of age~~  
21 convicted of a public offense.

22 Sec. 14. NEW SECTION. 232.190 COMMUNITY GRANT FUND.

23 1. A community grant fund is established in the state  
24 treasury under the control of the division of criminal and  
25 juvenile justice planning of the department of human rights  
26 for the purposes of awarding grants under this section. The  
27 criminal and juvenile justice planning advisory council and  
28 the juvenile justice advisory council shall assist the  
29 division in administering grants awarded under this section.  
30 The department of human services shall advise the division on  
31 programs which meet the criteria established for grant  
32 recipients. Not more than one percent of the moneys  
33 appropriated to the fund shall be used for administrative  
34 purposes.

35 2. A city, county, or entity organized under chapter 282



1 may apply to the department for a grant on a matching basis to  
2 fund juvenile crime prevention programs. The match may come  
3 from funds provided to the city, county, or entity organized  
4 under chapter 28E from private sources, other state programs,  
5 or federal programs. A city, county, or entity organized  
6 under chapter 28E applying for a grant under this section is  
7 encouraged to seek matching funds from, but not limited to,  
8 the Iowa finance authority, the governor's alliance on  
9 substance abuse, and under the state and federal community  
10 reinvestment Acts. Applications shall state specific outcomes  
11 sought to be obtained under a program funded by a grant under  
12 this section.

13 3. Programs awarded moneys from the community grant fund  
14 shall involve a collaborative effort by all children and  
15 family support service providers to provide services and shall  
16 reflect a community-wide consensus in how to remediate  
17 community problems. Services provided under the programs  
18 shall be comprehensive and utilize flexible delivery systems.  
19 The department of human services shall establish a point  
20 system for determining eligibility for grants from the fund  
21 based upon the nature and breadth of the community juvenile  
22 crime prevention programs and the extent to which a community  
23 has sought to obtain additional public and private funding  
24 sources for all or parts of the community's program.

25 4. This section is repealed effective June 30, 1998. The  
26 division of criminal and juvenile justice planning and the  
27 department of human services shall submit a report to the  
28 general assembly by January 15, 1998, regarding the  
29 effectiveness of the programs funded under this section in  
30 meeting the objectives contained in subsection 3.

31 Sec. 15. Section 280.19A, Code 1993, is amended by adding  
32 the following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. If a district has not adopted a  
34 plan as required in this section and implemented the plan by  
35 January 15, 1996, the district shall pay to the area education

1 agency serving the district an amount equal to the cost per  
2 pupil plus weightings or special education costs for each  
3 pupil who drops out of school in the district for purposes of  
4 developing an alternative options education program for the  
5 pupil.

6 Sec. 16. Section 294A.14, unnumbered paragraphs 9 and 10,  
7 Code Supplement 1993, are amended to read as follows:

8 For school districts, additional instructional work  
9 assignments may include but are not limited to general  
10 curriculum planning and development, vertical articulation of  
11 curriculum, horizontal curriculum coordination, development of  
12 educational measurement practices for the school district,  
13 participation in assessment activities leading to  
14 certification by the national board for professional teaching  
15 standards, attendance at workshops and other programs for  
16 service as cooperating teachers for student teachers,  
17 development of plans for assisting beginning teachers during  
18 their first year of teaching, attendance at summer staff  
19 development programs, development of staff development  
20 programs for other teachers to be presented during the school  
21 year, participation in family support programs, development of  
22 programs which provide instruction in conflict resolution and  
23 mediation techniques for staff and students, development of  
24 anger management instructional programs for students, and  
25 other plans locally determined in the manner specified in  
26 section 294A.15 and approved by the department of education  
27 under section 294A.16 that are of equal importance or more  
28 appropriately meet the educational needs of the school  
29 district.

30 For area education agencies, additional instructional work  
31 assignments may include but are not limited to providing  
32 assistance and support to school districts in general  
33 curriculum planning and development, providing assistance to  
34 school districts in vertical articulation of curriculum and  
35 horizontal curriculum coordination, development of educational

1 measurement practices for school districts in the area  
2 education agency, development of plans for assisting beginning  
3 teachers during their first year of teaching, attendance or  
4 instruction at summer staff development programs, development  
5 of staff development programs for school district teachers to  
6 be presented during the school year, participation in family  
7 support programs, development of staff development programs  
8 which provide instruction in conflict resolution and mediation  
9 techniques, assisting school district teachers in the  
10 development of anger management instructional programs for  
11 students, and other plans determined in the manner specified  
12 in section 294A.15 and approved by the department of education  
13 under section 294A.16 that are of equal importance or more  
14 appropriately meet the educational needs of the area education  
15 agency.

16 Sec. 17. NEW SECTION. 299.1B FAILURE TO ATTEND -- LOSS  
17 OF DRIVER'S LICENSE.

18 A person who does not attend a public school, an accredited  
19 nonpublic school, competent private instruction in accordance  
20 with the provisions of chapter 299A, an alternative school,  
21 adult education classes, or who is not employed at least  
22 twenty hours per week shall not receive a motor vehicle  
23 operator's license until age eighteen.

24 Sec. 18. Section 299.5A, Code 1993, is amended by adding  
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. The mediator may refer a truant  
27 to the juvenile court if mediation breaks down without an  
28 agreement being reached.

29 Sec. 19. NEW SECTION. 321.213A LICENSE SUSPENSION FOR  
30 JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL  
31 OFFENSES.

32 Upon the entering of an order at the conclusion of a  
33 dispositional hearing under section 232.50, where the child  
34 has been adjudicated to have committed a delinquent act, which  
35 would be a second or subsequent violation of section 123.46,

1 section 123.47 involving the purchase of or attempt to  
2 purchase alcoholic beverages, or chapter 124 if committed by  
3 an adult, the clerk of the juvenile court in the dispositional  
4 hearing shall forward a copy of the adjudication and  
5 dispositional order to the department. The department shall  
6 suspend the license or operating privilege of the child for  
7 one year or until the child reaches the age of eighteen,  
8 whichever is longer. The child may receive a temporary  
9 restricted license as provided in section 321.215.

10 Sec. 20. Section 602.6405, subsection 1, Code 1993, is  
11 amended to read as follows:

12 1. Magistrates have jurisdiction of simple misdemeanors,  
13 including traffic and ordinance violations, and preliminary  
14 hearings, search warrant proceedings, county and municipal  
15 infractions, violations of section 123.47, and small claims.  
16 A magistrate presiding over a case involving a violation of  
17 section 123.47 shall have the same jurisdiction as the  
18 juvenile court and shall use juvenile court procedure.

19 Magistrates have jurisdiction to exercise the powers specified  
20 in sections 644.2 and 644.12, and to hear complaints or  
21 preliminary informations, issue warrants, order arrests, make  
22 commitments, and take bail. Magistrates have jurisdiction  
23 over violations of section 123.49, subsection 2, paragraph  
24 "h". Magistrates who are admitted to the practice of law in  
25 this state have jurisdiction over all proceedings for the  
26 involuntary commitment, treatment, or hospitalization of  
27 individuals under chapters 125 and 229, except as otherwise  
28 provided under section 229.6A; nonlawyer magistrates have  
29 jurisdiction over emergency detention and hospitalization  
30 proceedings under sections 125.91 and 229.22. Magistrates  
31 have jurisdiction to conduct hearings authorized under section  
32 809.4 and section 809.10, subsection 2.

33 Sec. 21. Section 602.7103, subsection 3, Code 1993, is  
34 amended to read as follows:

35 3. The parties to a ~~termination-of-parental-rights~~

1 proceeding heard by an associate juvenile judge are entitled  
2 to appeal the order, finding, or decision of an associate  
3 juvenile judge, in the manner of an appeal from orders,  
4 findings, or decisions of district court judges. ~~The parties~~  
5 ~~to any other proceeding heard by an associate juvenile judge~~  
6 ~~are entitled to appeal the order, finding, or decision of an~~  
7 ~~associate juvenile judge to the district court.~~ An appeal  
8 does not automatically stay the order, finding, or decision of  
9 an associate juvenile judge.

10 Sec. 22. Section 613.16, subsection 2, Code 1993, is  
11 amended to read as follows:

12 2. The legal obligation of the parent or parents of an  
13 unemancipated minor child under the age of eighteen years to  
14 pay damages shall be limited as follows:

15 a.--~~Not~~ to no more than one ten thousand dollars for any  
16 ~~one act.~~

17 b.--~~Not~~ all acts and no more than two three thousand  
18 dollars, payable to the same claimant, for two one or more  
19 acts.

20 Sec. 23. Section 724.16, subsection 1, Code 1993, is  
21 amended to read as follows:

22 1. Except as otherwise provided in section 724.15,  
23 subsection 2, a person who acquires ownership of a pistol or  
24 revolver without a valid annual permit to acquire pistols or  
25 revolvers or a person who transfers ownership of a pistol or  
26 revolver to a person who does not have in the person's  
27 possession a valid annual permit to acquire pistols or  
28 revolvers is guilty of ~~a simple~~ an aggravated misdemeanor.

29 Sec. 24. NEW SECTION. 724.16A TRAFFICKING IN STOLEN  
30 WEAPONS.

31 A person who knowingly transfers or acquires possession, or  
32 who facilitates the transfer, of a stolen firearm commits a  
33 class "D" felony for a first offense and a class "C" felony  
34 for second and subsequent offenses or if the weapon is used in  
35 the commission of a public offense.

1 Sec. 25. Section 724.22, subsection 1, Code 1993, is  
2 amended to read as follows:

3 1. Except as provided in subsection 3, a person who sells,  
4 loans, gives, or makes available a rifle or shotgun or  
5 ammunition for a rifle or shotgun to a minor commits ~~a simple~~  
6 an aggravated misdemeanor for a first offense and a class "D"  
7 felony for second and subsequent offenses or if the rifle or  
8 shotgun is subsequently used in the commission of a forcible  
9 felony.

10 Sec. 26. Section 724.22, subsection 2, Code 1993, is  
11 amended to read as follows:

12 2. Except as provided in subsections 4 and 5, a person who  
13 sells, loans, gives, or makes available a pistol or revolver  
14 or ammunition for a pistol or revolver to a person below the  
15 age of twenty-one commits ~~a simple~~ an aggravated misdemeanor  
16 for a first offense and a class "D" felony for second and  
17 subsequent offenses or if the pistol or revolver is  
18 subsequently used in the commission of a forcible felony. In  
19 addition a person holding a federal firearms license or who  
20 regularly buys and sells firearms is subject to having the  
21 person's firearms inventory forfeited pursuant to chapter 809.

22 Sec. 27. Section 724.27, Code 1993, is amended to read as  
23 follows:

24 724.27 ~~EXCEPTION TO SECTIONS 724.8, SUBSECTION 27-724.15,~~  
25 ~~SUBSECTION 17, AND 724.26~~ OFFENDERS' RIGHTS RESTORED.

26 The provisions of sections 724.8, subsection 2, 724.15,  
27 subsection 1, paragraphs "b" and "e", and 724.26 shall not  
28 apply to a person who is eligible to have the person's civil  
29 rights regarding firearms restored under section 914.7 and who  
30 is pardoned or has had the person's civil rights restored by  
31 the President of the United States or the chief executive of a  
32 state and who is expressly authorized by the President of the  
33 United States or such chief executive to receive, transport,  
34 or possess firearms or destructive devices.

35 Sec. 28. Section 726.6, subsections 2 and 3, Code 1993,

1 are amended to read as follows:

2 2. a. A person who commits three or more acts of child  
3 endangerment resulting in serious injury to a child or minor  
4 is guilty of a class "B" felony.

5 b. A Except as otherwise provided in paragraph "a", a  
6 person who commits child endangerment resulting in serious  
7 injury to a child or minor is guilty of a class "C" felony.

8 c. A person who commits three or more acts of child  
9 endangerment not resulting in serious injury to a child or  
10 minor is guilty of a class "C" felony.

11 3 d. A Except as otherwise provided in paragraph "c", a  
12 person who commits child endangerment not resulting in serious  
13 injury to a child or minor is guilty of an aggravated  
14 misdemeanor.

15 Sec. 29. Section 805.8, subsection 10, Code Supplement  
16 1993, is amended to read as follows:

17 10. ALCOHOLIC BEVERAGE VIOLATIONS.

18 a. For violations of section 123.47A, which constitute  
19 first offenses as provided in that section, the scheduled fine  
20 is fifteen dollars.

21 b. For violations of section 123.49, subsection 2,  
22 paragraph "h", the scheduled fine is one hundred dollars.

23 Sec. 30. Section 808A.1, subsection 1, paragraph d, Code  
24 1993, is amended to read as follows:

25 d. A school locker, desk, or other facility or space is-  
26 sued or assigned to, or chosen by, the student for the storage  
27 of personal belongings of any kind, which the student locks or  
28 is permitted to lock. School officials may conduct periodic  
29 inspections of all school lockers. ~~However,~~ The school  
30 district shall provide notice to the students, at least  
31 twenty-four hours prior to the inspection, of the date and  
32 time of the inspection. However, if a controlled substance or  
33 a firearm is found in a student's locker, desk, or other  
34 facility or space issued or assigned to, or chosen by the  
35 student, the student shall not have the right to twenty-four

1 hours notice prior to subsequent inspections of the student's  
2 locker.

3 Sec. 31. Section 809.1, subsection 2, Code 1993, is  
4 amended by adding the following new paragraph:

5 NEW PARAGRAPH. e. The firearms inventory of a person  
6 holding a federal firearms license or a person who regularly  
7 buys and sells firearms who is convicted of a violation of  
8 section 724.22, subsection 2.

9 Sec. 32. Section 914.7, Code 1993, is amended to read as  
10 follows:

11 914.7 RIGHTS NOT RESTORABLE.

12 Notwithstanding any other provision of this chapter, a  
13 person, including a person seventeen years of age or under,  
14 who has been convicted of, or adjudicated delinquent for, a  
15 forcible-felony, -a-felony-violation-of-chapter-124 public  
16 offense involving a firearm, -or-a-felony-violation-of-chapter  
17 724 pistol or revolver shall not have the person's rights of  
18 citizenship restored to the extent of allowing the person to  
19 receive, transport, or possess firearms.

20 Sec. 33. APPROPRIATION -- CHILD ABUSE WORKERS. There is  
21 appropriated from the general fund of the state to the  
22 department of human services for the fiscal year beginning  
23 July 1, 1994, and ending June 30, 1995, the following amount,  
24 or so much thereof as is necessary, to be used for the purpose  
25 designated:

26 For child abuse treatment workers in addition to child  
27 abuse treatment positions authorized for field staff positions  
28 in the department of human services and funding otherwise  
29 appropriated for this purpose by the Seventy-fifth General  
30 Assembly, 1994 Session, including salaries, support,  
31 maintenance, miscellaneous purposes, and for not more than the  
32 following full-time equivalent positions:

33 .....	\$	290,000
34 .....	FTEs	5.00

35 Sec. 34. APPROPRIATION -- CHILDREN OF PARENTS IN PRISON.



1 There is appropriated from the general fund of the state to  
2 the department of human services for the fiscal year beginning  
3 July 1, 1994, and ending June 30, 1995, the following amount,  
4 or so much thereof as is necessary, to be used for the purpose  
5 designated:

6 For purchase of counseling and other support services for  
7 children whose parents are in prison:

8 ..... \$ 120,000

9 Sec. 35. APPROPRIATION -- HEALTHY FAMILY PROGRAM. There  
10 is appropriated from the general fund of the state to the Iowa  
11 department of public health for the fiscal year beginning July  
12 1, 1994, and ending June 30, 1995, the following amount, or so  
13 much thereof as is necessary, to be used for the purpose  
14 designated:

15 For the healthy family program established pursuant to  
16 section 135.106 in addition to other funds otherwise  
17 appropriated for this purpose by the Seventy-fifth General  
18 Assembly, 1994 Session:

19 ..... \$ 175,000

20 Sec. 36. APPROPRIATION -- HIGHLY STRUCTURED JUVENILE  
21 PROGRAMS. The department of human services and the division  
22 of criminal and juvenile justice planning of the department of  
23 human rights shall, contingent upon receipt of medical  
24 assistance funding for program participants, develop two 25-  
25 bed highly structured treatment-oriented facilities for youth  
26 who are adjudicated delinquents. The program shall include  
27 goals for the functioning of youth following completion of the  
28 treatment program provided by the facilities, after care  
29 tracking, and evaluation activities during treatment and after  
30 care. Funding for the facilities shall be provided from the  
31 appropriation to the department of human services for child  
32 and family services by the Seventy-fifth General Assembly,  
33 1994 Session.

34 Sec. 37. PARENTING PILOT PROJECT. The department of  
35 education shall establish a four-year pilot project in a

1 county with a population of less than thirty-five thousand  
2 inhabitants which provides outreach and incentives for the  
3 voluntary participation of expectant parents and parents of  
4 children in the period of life from birth through age three,  
5 in educational experiences designed to assist parents in  
6 learning about the physical, mental, and emotional development  
7 of their children and to enhance the skills of the parents in  
8 assisting their children's learning and development. The  
9 department shall establish criteria for programs offered  
10 through the project, which may include, but are not limited  
11 to, the criteria established for family support programs under  
12 section 256A.4. The department shall report to the general  
13 assembly by January 15, 1998, regarding the success of the  
14 pilot project in meeting the goals established in this  
15 section.

16 Sec. 38. APPROPRIATION. There is appropriated from the  
17 general fund of the state in the community grant fund for the  
18 fiscal year beginning July 1, 1994, and ending June 30, 1995,  
19 the following amount or so much thereof as is necessary, to be  
20 used for the purposes of the community grant fund established  
21 in this Act, including allocating \$100,000 to the Iowa law  
22 enforcement academy for the purpose of training officers on  
23 dealing with gang-affected youth and allocating up to \$250,000  
24 for the department of corrections to establish a youthful  
25 offender program modeled on the Polk county youthful offender  
26 program in two cities:

27 ..... \$ 2,000,000

28 Sec. 39. APPROPRIATION. There is appropriated from the  
29 general fund of the state to the judicial department for the  
30 fiscal year beginning July 1, 1994, and ending June 30, 1995,  
31 the following amount, or so much thereof as is necessary, to  
32 be used for the purpose designated:

33 For salaries, support, and maintenance, for the following  
34 additional juvenile court officers, and for not more than the  
35 following full-time equivalent positions:

1 ..... \$ 315,000  
2 ..... FTEs 9.00

3 The judicial department shall determine the location at  
4 which the additional juvenile court officers are to be placed.

5 Sec. 40. APPROPRIATION. There is appropriated from the  
6 general fund of the state to the department of education for  
7 the fiscal year beginning July 1, 1994, and ending June 30,  
8 1995, the following amount, or so much thereof as is  
9 necessary, to be used for the purpose designated:

10 For establishing a parent education pilot project in a  
11 county with fewer than thirty-five thousand inhabitants:

12 ..... \$ 100,000

13 Sec. 41. TRUANCY JUVENILE COURT OFFICERS. Contingent on a  
14 specific appropriation being made for this purpose, the  
15 judicial department shall add one additional juvenile court  
16 officer per judicial district for the purpose of handling  
17 truancy cases referred to the juvenile court under section  
18 299.5A, as amended in this Act.

19 EXPLANATION

20 Section 80B.11 is amended to provide that all law  
21 enforcement officers must receive expanded racial and cultural  
22 awareness training and training on how to deal with gang-  
23 affected youth.

24 Section 123.47 is amended to prohibit the purchase of  
25 alcoholic liquor, wine, or beer by minors and to provide for a  
26 penalty for minors who purchase alcoholic liquor, wine, or  
27 beer. The penalty is imposed by the juvenile court.

28 Sections 123.49 and 123.50 are amended to provide that a  
29 person holding a liquor license shall not sell alcoholic  
30 beverages to, or allow the consumption of alcoholic beverages  
31 by, a person if the licensee knows the person is under legal  
32 age or without exercising reasonable care to determine whether  
33 the person is under legal age. Violations of this provision  
34 is a simple misdemeanor punishable as a scheduled fine of  
35 \$100.

1 Sections 232.8 and 602.6405 are amended to give magistrates  
2 the same jurisdiction as the juvenile court over alcohol  
3 offenses under section 123.47 by juveniles.

4 Section 232.44 is amended to allow detention hearings to be  
5 held in the county in which the juvenile is detained, if it is  
6 in the same judicial district as the county of the juvenile's  
7 residence or in which the alleged delinquent act for which the  
8 juvenile was detained occurred.

9 The provisions of section 232.45A are changed to add  
10 aggravated misdemeanors against persons to the list of  
11 offenses for which a juvenile may be permanently waived to  
12 adult court.

13 Section 232.52 is amended to provide that a dispositional  
14 order in a delinquency action may include the suspension of  
15 the juvenile's driver's license for public intoxication, the  
16 purchase or attempt to purchase of alcoholic beverages, or  
17 drug offenses for one year or until age 18, whichever is  
18 longer. The juvenile court may also order a parent or  
19 guardian to participate in certain activities as part of a  
20 probation plan for a juvenile and may hold a parent or  
21 guardian who fails to participate in contempt.

22 Section 232.91A is added by the bill to allow grandparent  
23 involvement in child in need of assistance proceedings.

24 The bill also changes the manner in which parental rights  
25 may be terminated under section 232.116. Parental rights may  
26 be terminated if the child meets the definition of a child in  
27 need of assistance based on physical or sexual abuse or  
28 neglect, if clear and convincing evidence shows that the abuse  
29 or neglect posed or poses a severe and significant risk to the  
30 life of the child, and if clear and convincing evidence shows  
31 that the provision of services will not correct the abusive or  
32 neglectful situation within a reasonable amount of time.

33 Section 232.148 is amended to provide that fingerprints and  
34 photographs may be taken of a juvenile age 14 or older who is  
35 taken into custody for a public offense other than a simple or

1 serious misdemeanor. The fingerprints will be included in the  
2 automated fingerprint identification system. Also,  
3 fingerprint and photograph files of juveniles may be combined  
4 with those of adults and in some circumstances, the  
5 fingerprint records of juveniles may be retained for an  
6 extended period of time.

7 The bill also establishes a community grant fund under the  
8 control of the division of criminal and juvenile justice  
9 planning of the department of human rights. The fund shall  
10 provide matching grants to cities, counties, or groups of  
11 cities and counties to fund juvenile crime prevention  
12 programs. The community grant fund sunsets June 30, 1998.  
13 The division is to submit a report to the general assembly  
14 regarding the success of the program.

15 A new unnumbered paragraph is added to section 280.19A  
16 regarding alternative options educational programs, which  
17 requires a school district which has not adopted an  
18 alternative options educational plan by January 15, 1996 to  
19 pay the area education agency the cost of developing an  
20 alternative options education program for each student who  
21 drops out of school.

22 The bill provides in section 294A.14 that moneys available  
23 under phase III of the educational excellence program may be  
24 used for development of instructional programs regarding  
25 conflict resolution, mediation techniques, and anger  
26 management.

27 The bill establishes a new section 299.1B which provides  
28 that a person not attending school, alternative school, adult  
29 education, or working at least 20 hours per week shall not  
30 receive a driver's license until age 18.

31 Section 299.5A, regarding truancy mediation, is amended to  
32 allow the mediator to refer a truant to the juvenile court if  
33 mediation breaks down.

34 Section 321.213A is created to provide that the Iowa  
35 department of transportation shall suspend the license of a

1 juvenile in accordance with the dispositional order of the  
2 juvenile court. The juvenile is eligible for a temporary  
3 restricted license.

4 The bill amends section 602.7103 regarding the jurisdiction  
5 of associate juvenile judges to provide that appeals from  
6 orders of associate juvenile judges are appealable in the same  
7 manner as appeals from an order of a district court judge.

8 Section 613.16, regarding parental financial responsibility  
9 for delinquent acts of minor children, is amended to provide a  
10 maximum obligation of \$10,000 and no more than \$3,000 for any  
11 one claimant.

12 The bill increases the penalty in section 724.16 for  
13 acquiring a pistol or revolver without a valid permit to  
14 acquire from a simple to an aggravated misdemeanor.

15 The bill also creates the offense of trafficking in stolen  
16 weapons in section 724.16A. This offense is a class "D"  
17 felony for a first offense and a class "C" felony for second  
18 and subsequent offenses or if the weapon is used in the  
19 commission of a public offense.

20 Section 724.22 is amended to increase the penalty for  
21 selling or making available a rifle or shotgun to a minor, or  
22 pistol or revolver or ammunition to a person under the age of  
23 21. These offenses are aggravated misdemeanors for first  
24 offenses and class "D" felonies for second and subsequent  
25 offenses or if the weapon is used in the commission of a  
26 forcible felony. In addition, a firearms dealer is subject to  
27 having the person's firearms inventory forfeited under chapter  
28 809 for selling a pistol or revolver to a minor under chapter  
29 809.

30 A juvenile who commits a crime with a pistol or revolver or  
31 is adjudicated delinquent for an act which would be a crime  
32 committed with a pistol or revolver loses the person's right  
33 to own or possess firearms permanently under sections 724.27  
34 and 914.7.

35 Provisions are added to section 726.6 making the third and

1 subsequent child endangerment offense which results in serious  
2 injury a class "B" felony and a class "C" felony if no serious  
3 injury results.

4 Section 805.8, subsection 10, regarding alcoholic beverage  
5 violations, is amended to provide for a \$100 scheduled fine  
6 for certain violations by a person holding a liquor license.

7 Section 808A.1 adds a provision that exempts from the  
8 requirement that 24-hour notice be provided prior to a locker  
9 search, a student who has previously been found with a firearm  
10 or controlled substance in the student's locker, desk, or  
11 other protected student area.

12 The bill also makes appropriations of \$2,000,000 to the  
13 community grant fund and the judicial department for \$315,000  
14 for nine additional juvenile court officers.

15 The bill also appropriates \$290,000 to the department of  
16 human services for the employment of five additional child  
17 abuse treatment workers, \$120,000 for counseling and other  
18 services for children whose parents are in prison, \$175,000  
19 for the healthy family program in the department of public  
20 health, and \$100,000 to establish a parent education pilot  
21 project by the department of education. In addition, the bill  
22 directs that funding appropriated to the department of human  
23 services for child and family services during the 1994 session  
24 of the general assembly be used to establish two 25-bed highly  
25 structured juvenile programs. The development of the programs  
26 is also contingent on the receipt of medical assistance  
27 funding for program participants.

28 The bill provides for one additional juvenile court officer  
29 per judicial district for the purpose of handling truancy  
30 cases contingent on an appropriation for that purpose.

31  
32  
33  
34  
35

## SENATE FILE 2319

S-5415

1 Amend Senate File 2319, as follows:  
2 1. Page 11, by inserting before line 20 the  
3 following:  
4 "Sec. \_\_\_\_ . NEW SECTION. 692A.1 DEFINITIONS.  
5 As used in this chapter, unless the context  
6 otherwise requires:  
7 1. "Bureau" means the department of public safety,  
8 division of criminal investigation and bureau of  
9 identification.  
10 2. "Criminal justice agency" means an agency or  
11 department of federal, state, or local government or  
12 an entity which is wholly owned, financed, or  
13 controlled by one or more agencies or departments of  
14 federal, state, or local government, which performs as  
15 its principal function the apprehension, prosecution,  
16 adjudication, incarceration, or rehabilitation of  
17 criminal offenders.  
18 3. "Department" means the department of public  
19 safety.  
20 4. "Individually identified" means criminal  
21 history data which relates to a specific person by one  
22 or more of the following means of identification:  
23 a. Name and alias if any.  
24 b. Social security number.  
25 c. Fingerprints.  
26 5. "Sex crime" means the commission of any of the  
27 following public offenses:  
28 a. Commission of an act prohibited under chapter  
29 709.  
30 b. Kidnapping, which is accompanied by the intent  
31 to subject the person kidnapped to sexual abuse, as  
32 defined under section 710.1, subsection 3.  
33 c. Burglary or attempted burglary accompanied by  
34 the intent to commit sexual abuse under chapter 713.  
35 d. Incest as defined under section 726.2.  
36 e. Dissemination and exhibition of obscene  
37 material to minors in violation of section 728.2.  
38 f. Admitting minors to premises where obscene  
39 material is exhibited in violation of section 728.3.  
40 g. Sexual exploitation of a minor in violation of  
41 section 728.12.  
42 h. Telephone dissemination of obscene material to  
43 minors in violation of section 728.15.  
44 i. A public offense committed under any  
45 predecessor statutes to the public offenses specified  
46 under paragraphs "a" through "h".  
47 j. A public offense committed in another  
48 jurisdiction which would constitute a public offense  
49 under paragraphs "a" through "h" if committed in this  
50 state.

S-5415

-1-



S-5415

Page 2

1 6. "Sex crimes analysis information" means  
2 information and analysis of information provided to  
3 and used by the sex crimes analysis unit of the  
4 department of public safety that relates to sex crimes  
5 and sex offenders.

6 7. "Sex offender" means any person who has been  
7 convicted of or adjudicated delinquent for commission  
8 of an act which constitutes a sex crime.

9 8. "Sex offender registry" means the centralized  
10 information base maintained by the department of  
11 public safety.

12 Sec. \_\_\_\_ . NEW SECTION. 692A.2 WHO MUST REGISTER  
13 -- FREQUENCY OF REGISTRATION -- NOTICE OF DUTY TO  
14 REGISTER.

15 1. A person who is found guilty, pleads guilty, is  
16 adjudicated delinquent, or is sentenced for a sex  
17 crime shall register in the manner provided in this  
18 chapter. If a person's conviction of or delinquency  
19 adjudication for commission of an act which would  
20 constitute a sex crime is subsequently set aside or  
21 overturned, the person shall not be required to  
22 register as a sex offender due to the former  
23 conviction or adjudication.

24 2. The department may require a person convicted  
25 of or adjudicated delinquent for commission of an act  
26 which constitutes a sex crime who is incarcerated to  
27 be registered in the county of incarceration. If the  
28 registration of incarcerated sex offenders is  
29 required, the department of corrections in the case of  
30 persons committed to the custody of the director of  
31 the department of corrections, the judicial district  
32 department of correctional services in the case of  
33 persons assigned to the custody of the judicial  
34 district department of correctional services, or the  
35 department of human services in the case of persons  
36 who are incarcerated in an institution subject to the  
37 control of the department of human services, shall,  
38 upon releasing the offender, notify the sheriff of the  
39 county to which the person is released. The  
40 notification does not relieve the person of the duty  
41 to register.

42 3. At the time of adjudication of delinquency or  
43 sentencing or, if the person is to be released from  
44 physical custody prior to adjudication of delinquency  
45 or sentencing, at the time of entry of a guilty plea  
46 or entry of a verdict of guilty, the court shall  
47 notify the sex offender of the person's duty to  
48 register. Failure of the court to notify a person of  
49 the duty to register does not relieve the sex offender  
50 of the duty to register.

S-5415

-2-

S-5415

Page 3

1 4. Upon entry of sentence, adjudication of  
2 delinquency, acceptance of a plea of guilty, or entry  
3 of a verdict of guilty for a sex offense, the clerk  
4 shall forward copies of each court order and other  
5 relevant documents filed or entered in the case to the  
6 department.

7 Sec. \_\_\_\_ . NEW SECTION. 692A.3 ANNUAL  
8 REGISTRATION REQUIRED.

9 Each sex offender shall, within ten days of release  
10 from physical custody, register initially as a sex  
11 offender with the sheriff of the county in which the  
12 sex offender takes up temporary or permanent  
13 residence. A sex offender shall register annually  
14 with the county sheriff. Renewals of registration  
15 shall be completed no later than January 15.

16 A sex offender who is age eighteen or older at the  
17 time of conviction of the sex crime shall register  
18 annually during the ten-year period which begins  
19 either with the date of conviction for the sex crime  
20 or the date of the person's release from custody,  
21 whichever date occurs later. Sex offenders who are  
22 under the age of eighteen at the time of their  
23 adjudication of delinquency for an act which  
24 constitutes a sex crime shall register annually until  
25 the person reaches the age of twenty-five.

26 If a sex offender maintains more than one  
27 residence, the sex offender shall register in each  
28 county of residence in the manner required by the  
29 department. If the sex offender maintains a mobile  
30 residence, the sex offender shall register any address  
31 at which the offender resides for more than ten days  
32 and include the vehicle identification number of the  
33 mobile residence in the offender's registration  
34 information. If a sex offender who is required to  
35 register under this chapter changes the offender's  
36 temporary or permanent residence, the person shall  
37 register with the sheriff of the county in which the  
38 new residence is located, within ten days of the date  
39 on which the offender's residence changes. The  
40 sheriff shall transmit the registration information to  
41 the department in the manner provided by rules adopted  
42 by the department.

43 Sec. \_\_\_\_ . NEW SECTION. 692A.4 REGISTRATION  
44 PROCEDURES.

45 The department shall adopt rules and develop  
46 appropriate forms regarding the registration of sex  
47 offenders which include, but are not limited to, all  
48 of the following:

49 1. REGISTRATION FORM AND CONTENTS. The department  
50 shall develop a standard registration form for use in

S-5415

S-5415

Page 4

1 offender registration. Forms developed shall include  
2 information regarding the sex offender's specific  
3 address, including the street name, house, apartment  
4 or lot number, any post office box, and plat number;  
5 and a current telephone number. Forms developed shall  
6 permit the addition of other relevant information,  
7 such as, but not limited to, fingerprints,  
8 photographs, and other relevant information.

9 2. AVAILABILITY OF FORMS. Rules adopted shall  
10 provide that registration forms shall be available in  
11 each county sheriff's office, and at each facility in  
12 which sex offenders are incarcerated if the  
13 registration of incarcerated sex offenders is  
14 required. Copies of the form shall be available to  
15 any person upon request.

16 3. REGISTRATION PROCEDURES. Rules adopted shall  
17 establish procedures for the registration of  
18 offenders. The procedures shall include provisions  
19 for adding, deleting, and changing registration  
20 information, and for renewing registrations as  
21 necessary.

22 4. DUTIES OF THE SHERIFF. Rules shall establish  
23 the duties of the sheriff regarding registration forms  
24 and information and shall include a duty to transmit  
25 all information received to the department.

26 Sec. \_\_\_\_\_. NEW SECTION. 692A.5 REGISTRY  
27 CONFIDENTIAL.

28 1. The sex offender registry is a confidential  
29 record under section 22.7, subsection 9, and shall  
30 only be used for legitimate law enforcement purposes.  
31 In cases in which members of the department are  
32 participating in an investigation or arrest, or where  
33 the department has entered into an agreement with  
34 officers of other criminal justice agencies regarding  
35 dissemination of information, the department may  
36 disseminate sex offender registry information and sex  
37 crimes analysis information in the manner provided in  
38 section 692A.6.

39 2. Except in cases in which members of the  
40 department are participating in an investigation or  
41 arrest, the department and bureau may provide copies  
42 or communicate information from the sex offender  
43 registry to the following:

44 a. Criminal justice agencies.

45 b. Other public agencies, as authorized by the  
46 commissioner of public safety.

47 c. The Iowa department of human services for the  
48 purposes

49 of carrying out the duties or requirements of section 218.13,  
50 section 232.71, subsection 1, section 232.142, section

S-5415

-4-

S-5415

Page 5

1 237.8, subsection 2, sections 237A.5 and 237A.20, and  
2 section 600.8, subsections 1 and 2.

3 d. The Iowa department of public health for the  
4 purposes of screening employees and applicants for  
5 positions of employment in health care facilities or  
6 in substance abuse treatment programs which admit  
7 juveniles and are licensed under chapter 125.

8 e. Licensed private child care and child placement  
9 agencies and certified adoption investigators for  
10 purposes of carrying out the requirements of section  
11 237.8, subsection 2, and section 600.8, subsections 1  
12 and 2.

13 f. A psychiatric medical institution for children  
14 licensed under chapter 135H for purposes of meeting  
15 the requirements specified in section 237.8,  
16 subsection 2, and section 600.8, subsections 1 and 2.

17 g. The board of educational examiners for purposes  
18 of carrying out duties imposed under section 272.2,  
19 subsection 14.

20 3. The bureau shall maintain a list showing the  
21 individual or agency to whom the information is  
22 disseminated and the date of dissemination.

23 4. A person authorized to receive sex offender  
24 registry information shall request and may receive the  
25 information only when both of the following conditions  
26 apply:

27 a. The information is for official purposes and is  
28 in connection with prescribed duties or required  
29 pursuant to section 237.8, subsection 2, or section  
30 237A.5.

31 b. The request for information is based upon a  
32 name, fingerprints, or other individual identifying  
33 characteristics.

34 5. Notwithstanding provisions of this section to  
35 the contrary, the department may provide copies or  
36 communicate information from the sex offender registry  
37 to any youth service agency approved by the  
38 commissioner of public safety. Sex offender registry  
39 information provided by the department or bureau to  
40 authorized youth service agencies shall be limited to  
41 information regarding applicants for paid or voluntary  
42 positions, if those positions would place the  
43 applicant in direct contact with children. The  
44 department shall adopt rules that establish criteria  
45 for the qualification and approval of youth service  
46 agencies that may receive sex offender registry  
47 information.

48 6. The department may charge a fee to any non-law  
49 enforcement agency for conducting sex offender  
50 registry checks and otherwise performing duties

S-5415

-5-

S-5415

Page 6

1 related to providing access to sex offender registry  
2 information. The amount of the fee shall be set by  
3 the commissioner of public safety, but shall be equal  
4 to the lesser of either the cost incurred in providing  
5 the information or twenty dollars for each individual  
6 check requested. Notwithstanding any other provision  
7 to the contrary, the department may use moneys from  
8 the fee to employ clerical personnel to process sex  
9 offender registry checks for non-law enforcement  
10 purposes.

11 7. Information contained in the registry may be  
12 disseminated to law enforcement agencies in Iowa and  
13 other jurisdictions.

14 The department shall adopt rules to administer this  
15 section.

16 Sec. \_\_\_\_ . NEW SECTION. 692A.6 REDISSEMINATION OF  
17 SEX OFFENDER REGISTRY INFORMATION.

18 1. Except as otherwise provided in this section, a  
19 person or agency receiving sex offender registry  
20 information from the department or bureau shall not  
21 redisseminate the information, unless all of the  
22 following apply:

23 a. The information is for official purposes in  
24 connection with prescribed duties of a criminal  
25 justice agency.

26 b. The agency maintains a list of the persons  
27 receiving the information and the date and purpose of  
28 the dissemination.

29 c. The request for information is based upon a  
30 name, fingerprints, or other individual identifying  
31 characteristics.

32 2. The department of human services may  
33 redisseminate sex offender registry information  
34 obtained pursuant to section 692A.5, to persons  
35 licensed, registered, or certified under chapters 237,  
36 237A, 238, and 600 for the purposes of section 237.8,  
37 subsection 2, and section 237A.5. A person who  
38 receives information pursuant to this subsection shall  
39 not use the information other than for purposes of  
40 section 237.8, subsection 2, section 237A.5, or  
41 section 600.8, subsections 1 and 2. A person who  
42 receives sex offender registry information pursuant to  
43 this subsection and who uses the information for  
44 purposes other than those permitted by this subsection  
45 or who communicates the information to another person  
46 except for the purposes permitted by this subsection  
47 is guilty of an aggravated misdemeanor.

48 3. The Iowa department of public health may  
49 redisseminate sex offender registry information  
50 obtained pursuant to section 692A.5, subsection 1, to

S-5415

-6-

S-5415

Page 7

1 administrators of facilities licensed under chapter  
2 125 which admit juveniles. Persons who receive sex  
3 offender registry information pursuant to this  
4 subsection shall not use the information other than  
5 for the purpose of screening employees and applicants  
6 for employment in substance abuse programs which admit  
7 juveniles and are licensed under chapter 125. A  
8 person who receives sex offender registry information  
9 pursuant to this subsection and who uses it for any  
10 other purposes or who communicates the information to  
11 any other person other than for the purposes permitted  
12 by this subsection is guilty of an aggravated  
13 misdemeanor.

14 4. A peace officer, criminal justice agency, or  
15 state or federal regulatory agency shall not  
16 disseminate sex crimes analysis information outside  
17 the agency, received from the department or bureau or  
18 from any other source, except as provided in  
19 subsection 1, paragraphs "a" through "c".

20 Sec. \_\_\_\_ . NEW SECTION. 692A.7 FAILURE TO COMPLY.

21 Failure to register as required under this chapter  
22 is a serious misdemeanor for a first offense, an  
23 aggravated misdemeanor for a second offense, and a  
24 class "D" felony for a third or subsequent offense.  
25 Any fine imposed for a second or subsequent offense  
26 shall not be suspended. The court shall not defer the  
27 judgment or sentence for any violation of this  
28 chapter. The failure of a sex offender who is on  
29 probation or parole to register as required under this  
30 chapter shall result in the automatic revocation of  
31 the sex offender's probation or parole.

32 A conviction for, deferred judgment for, or plea of  
33 guilty to, a violation of this section which occurred  
34 more than ten years prior to the date of the violation  
35 charged shall not be considered in determining that  
36 the violation charged is a second, third, or  
37 subsequent offense. For purposes of determining if a  
38 violation is a second or subsequent offense, deferred  
39 judgments entered pursuant to section 907.3 for  
40 violations of this section and convictions or the  
41 equivalent of deferred judgments entered for  
42 violations in any other states under sex offender  
43 registry provisions that are substantially similar to  
44 those contained in this section shall be counted as  
45 previous offenses. The court shall judicially notice  
46 the statutes of other states which establish offenses  
47 substantially equivalent to this section. Each  
48 violation for which a conviction or deferral judgment  
49 is entered prior to the date of the violation charged  
50 shall be considered and counted as a separate previous

S-5415

-7-

S-5415

Page 8

1 offense.

2 Sec. \_\_\_\_ . NEW SECTION. 692A.8 ACQUITTALS BY  
3 REASON OF INSANITY -- PSYCHIATRIC EVALUATION.

4 If a person is found not guilty by reason of  
5 insanity of any sex crime, the court shall order that  
6 the person undergo an independent psychiatric  
7 evaluation in order to determine whether the offender  
8 suffers from a permanent psychiatric disorder, and  
9 whether the disorder can be treated. The results of  
10 the examination shall be reported to the court.

11 Sec. \_\_\_\_ . NEW SECTION. 692A.9 SEX CRIMES  
12 ANALYSIS UNIT.

13 If the commissioner of public safety determines  
14 that sufficient funds are appropriated or received,  
15 the department shall establish a sex crimes analysis  
16 unit to maintain the sex offender registry, to conduct  
17 research and analysis related to sex crimes and sex  
18 offenders, and to perform other duties required under  
19 this chapter.

20 Sec. \_\_\_\_ . NEW SECTION. 692A.10 REDISSEMINATION  
21 OF SEX CRIMES ANALYSIS INFORMATION.

22 1. Information obtained by the sex crimes analysis  
23 unit is a confidential record under section 22.7,  
24 subsection 9. The department or bureau may compile  
25 and disseminate sex crimes analysis information to  
26 criminal justice agencies for official law enforcement  
27 purposes. The department may compile and disseminate  
28 sex crimes analysis information in the form of  
29 statistical or law enforcement reports derived from  
30 sex crimes analysis information or as the basis of  
31 further study if individual identities are not  
32 ascertainable.

33 The bureau may, with the approval of the  
34 commissioner of public safety, disseminate sex crimes  
35 analysis information to persons conducting bona fide  
36 research, if the data is not individually identified.

37 2. The department may compile and disseminate sex  
38 crimes analysis information that may aid in the  
39 investigation, apprehension, or prosecution of a  
40 criminal case to criminal justice agencies. The  
41 information shall not be redisseminated unless the  
42 redissemination is to aid in the investigation,  
43 apprehension, or prosecution of a suspect."

44 2. Page 13, by inserting after line 14 the  
45 following:

46 "Sec. \_\_\_\_ . Section 728.14, Code 1993, is amended  
47 to read as follows:

48 728.14 COMMERCIAL FILM AND PHOTOGRAPHIC PRINT  
49 PROCESSOR REPORTS OF DEPICTIONS OF MINORS ENGAGED IN  
50 PROHIBITED SEXUAL ACTS.

S-5415

S-5415

Page 9

1     1. A commercial film and photographic print  
 2 processor who has knowledge of or observes, within the  
 3 scope of the processor's professional capacity or  
 4 employment, a film, photograph, video tape, negative,  
 5 or slide which depicts a minor whom the processor  
 6 knows or reasonably should know to be under the age of  
 7 eighteen, engaged in a prohibited sexual act or in the  
 8 simulation of a prohibited sexual act, shall report  
 9 the depiction to the county attorney immediately or as  
 10 soon as possible as required in this section. The  
 11 processor shall not report to the county attorney  
 12 depictions involving mere nudity of the minor, but  
 13 shall report depictions involving a prohibited sexual  
 14 act. This section shall not be construed to require a  
 15 processor to review all films, photographs, video  
 16 tapes, negatives, or slides delivered to the processor  
 17 within the processor's professional capacity or  
 18 employment.

19     ~~For purposes of this section, "prohibited sexual~~  
 20 ~~act" means any of the following:~~  
 21 ~~---a---A sex act as defined in section 702.17.~~  
 22 ~~---b---An act of bestiality involving a minor.~~  
 23 ~~---c---Fondling or touching the pubes or genitals of a~~  
 24 ~~minor for the purpose of arousing or satisfying the~~  
 25 ~~sexual desires of a person who may view a depiction of~~  
 26 ~~the act.~~  
 27 ~~---d---Fondling or touching the pubes or genitals of a~~  
 28 ~~person by a minor for the purpose of arousing or~~  
 29 ~~satisfying the sexual desires of a person who may view~~  
 30 ~~a depiction of the act.~~  
 31 ~~---e---Sadomasochistic abuse of a minor for the~~  
 32 ~~purpose of arousing or satisfying the sexual desires~~  
 33 ~~of a person who may view a depiction of the abuse.~~  
 34 ~~---f---Sadomasochistic abuse of a person by a minor~~  
 35 ~~for the purpose of arousing or satisfying the sexual~~  
 36 ~~desires of a person who may view a depiction of the~~  
 37 ~~abuse.~~

38     2. ~~A person who violates this section is guilty of~~  
 39 ~~a simple misdemeanor."~~

40     3. Page 14, by inserting after line 8 the  
 41 following:

42     "Sec. \_\_\_\_ . NEW SECTION. 901.11 CIVIL PENALTY FOR  
 43 SEX OFFENDERS.

44     1. In addition to any other applicable penalty, a  
 45 person who is found guilty, pleads guilty, or is  
 46 sentenced for any of the following crimes, shall be  
 47 assessed a civil penalty of one hundred dollars:

48     a. A crime under chapter 709.

49     b. Kidnapping, which is accompanied by the intent  
 50 to subject the person kidnapped to sexual abuse, as

S-5415



S-5415

Page 10

1 defined in section 710.1.

2 c. Burglary or attempted burglary accompanied by  
3 the intent to commit sexual abuse under chapter 713.

4 d. Incest as defined under section 725.2.

5 e. Dissemination and exhibition of obscene  
6 material to minors in violation of section 728.2.

7 f. Admitting minor to premises where obscene  
8 material is exhibited in violation of section 728.3.

9 g. Sexual exploitation of a minor in violation of  
10 section 728.12.

11 h. Telephone dissemination of obscene material to  
12 a minor in violation of section 728.15.

13 2. Money collected under this section shall be  
14 transmitted to the treasurer of state who shall  
15 deposit the money in the general fund of the state.

16 Sec. \_\_\_\_\_. Section 907.3, subsection 1, Code  
17 Supplement 1993, is amended by adding the following  
18 new paragraph:

19 NEW PARAGRAPH. j. The offense is a failure to  
20 register in violation of chapter 692A.

21 Sec. \_\_\_\_\_. Section 907.3, subsection 2, Code  
22 Supplement 1993, is amended to read as follows:

23 2. At the time of or after pronouncing judgment  
24 and with the consent of the defendant, the court may  
25 defer the sentence and assign the defendant to the  
26 judicial district department of correctional services.  
27 However, the court shall not defer the sentence for a  
28 violation of section 708.2A if the defendant has  
29 previously received a deferred judgment or sentence  
30 for a violation of section 708.2 or 708.2A which was  
31 issued on a domestic abuse assault, or if similar  
32 relief was granted anywhere in the United States  
33 concerning that jurisdiction's statutes which  
34 substantially correspond to domestic abuse assault as  
35 provided in section 708.2A. In addition, the court  
36 shall not defer a sentence if it is imposed for  
37 contempt pursuant to section 236.8 or 236.14, or if it  
38 is imposed for a violation of chapter 692A. Upon a  
39 showing that the defendant is not fulfilling the  
40 conditions of probation, the court may revoke  
41 probation and impose any sentence authorized by law.  
42 Before taking such action, the court shall give the  
43 defendant an opportunity to be heard on any matter  
44 relevant to the proposed action. Upon violation of  
45 the conditions of probation, the court may proceed as  
46 provided in chapter 908."

47 4. Title, page 2, line 11, by inserting after  
48 the word "children;" the following: "relating to sex  
49 acts and sex offenders, establishment of a sex  
50 offender registry, and providing penalties;".

S-5415

-10-

## SENATE FILE 2319

S-5437

1 Amend Senate File 2319 as follows:

---

2 1. Page 2, by inserting after line 13 the  
3 following:

4 "Sec. \_\_\_\_ . Section 232.2, subsection 6, Code  
5 Supplement 1993, is amended by adding the following  
6 new paragraph:

7 NEW PARAGRAPH. p. Who is a truant as defined in  
8 section 299.8.

A 9 Sec. \_\_\_\_ . Section 232.2, subsection 12, Code  
10 Supplement 1993, is amended by adding the following  
11 new paragraph:

12 NEW PARAGRAPH. c. The violation of the statutory  
13 compulsory attendance age requirement or the  
14 attendance policy of a public school, an accredited  
15 nonpublic school, or competent private instruction  
16 which results in the child being deemed a truant  
17 pursuant to section 299.8."

---

18 2. Page 9, by striking lines 26 through 28 and  
19 inserting the following:

20 "NEW UNNUMBERED PARAGRAPH. If the mediation does  
21 not result in the child returning to school within  
22 thirty days, the chief administrative officer of the  
23 school at which the student should be in attendance  
24 shall request the county attorney to file a petition  
25 under division II of chapter 232 or request the  
26 department of human services, a juvenile court  
27 officer, or the county attorney to file a petition  
28 under division III of chapter 232.

B 29 Sec. \_\_\_\_ . Section 299.8, Code 1993, is amended to  
30 read as follows:

31 299.8 "TRUANT" DEFINED.

32 Any child of compulsory attendance age who fails to  
33 attend school as provided in this chapter, or as  
34 required by the school board's or school governing  
35 body's attendance policy, or who fails to attend  
36 competent private instruction under chapter 299A,  
37 without reasonable excuse for the absence, shall be  
38 deemed to be a truant. ~~A finding that a child is~~  
39 ~~truant, however, shall not by itself mean that the~~  
40 ~~child is a child in need of assistance within the~~  
41 ~~meaning of chapter 232 and shall not be the sole basis~~  
42 ~~for a child in need of assistance petition."~~

---

43 3. By renumbering as necessary.

By AL STURGEON  
TONY BISIGNANO

S-5437 FILED APRIL 4, 1994  
DIVISION WITHDRAWN, LOST (p. 995)

## SENATE FILE 2319

S-5436

1 Amend Senate File 2319 as follows:

2 1. Page 7, by inserting after line 30 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 233A.18 POPULATION.

5 The number of beds available at the training school  
6 shall not exceed one hundred."

7 2. Page 17, by inserting after line 18 the  
8 following:

9 "Sec. \_\_\_\_ . The department of human services shall  
10 transfer to the judicial department the difference  
11 between the amount of funds appropriated to the  
12 department for the fiscal year beginning July 1, 1994,  
13 and ending June 30, 1995, for the purpose of funding  
14 one hundred and eighty-five beds at the state training  
15 school and the amount needed to fund one hundred beds  
16 at the state training school. The judicial department  
17 shall utilize the funds transferred for a truancy  
18 reduction program through the juvenile court."

19 3. By renumbering as necessary.

By AL STURGEON

S-5436 FILED APRIL 4, 1994

LOST (p. 994)

SENATE FILE 2319

S-5439

1 Amend Senate File 2319 as follows:

2 1. Page 14, by inserting after line 8 the  
3 following:

4 "Sec. \_\_\_\_ . Section 902.7, Code 1993, is amended to  
5 read as follows:

6 902.7 MINIMUM SENTENCE -- USE OF A FIREARM.

7 At the trial of a person, including a juvenile over  
8 whom juvenile court jurisdiction has been waived  
9 pursuant to section 232.45 or 232.45A, charged with  
10 participating in a forcible felony, if the trier of  
11 fact finds beyond a reasonable doubt that the person  
12 is guilty of a forcible felony and that the person  
13 represented that the person was in the immediate  
14 possession and control of a firearm, displayed a  
15 firearm in a threatening manner, or was armed with a  
16 firearm while participating in the forcible felony the  
17 convicted person over whom juvenile court jurisdiction  
18 has been waived shall serve a minimum of five twenty  
19 years of the sentence imposed by law. A person,  
20 including a juvenile over whom juvenile court  
21 jurisdiction has been waived, sentenced pursuant to  
22 this section shall not be eligible for parole until  
23 the person has served the minimum sentence of  
24 confinement imposed by this section."

25 2. By renumbering as necessary.

By ALLEN BORLAUG  
JOHN W. JENSEN  
BERL E. PRIEBE

H. KAY HEDGE  
MERLIN E. BARTZ

S-5439 FILED APRIL 4, 1994  
RULED OUT OF ORDER (P. 994)

SENATE FILE 2319

S-5442

1 Amend the amendment, S-5437, to Senate File 2319 as  
2 follows:

3 1. Page 1, by striking lines 32 through 42 and  
4 inserting the following:

5 "Any child of compulsory attendance age who fails  
6 to attend school as provided in this chapter, or as  
7 required by the school board's or school governing  
8 body's attendance policy, ~~or who fails to attend~~  
9 ~~competent private instruction under chapter 299A,~~  
10 without reasonable excuse for the absence, shall be  
11 deemed to be a truant. ~~A finding that a child is~~  
12 ~~truant, however, shall not by itself mean that the~~  
13 ~~child is a child in need of assistance within the~~  
14 ~~meaning of chapter 232 and shall not be the sole basis~~  
15 ~~for a child in need of assistance petition. A child~~  
16 of compulsory attendance age who fails to attend  
17 competent private instruction under chapter 299A,  
18 without reasonable excuse for the absence, shall be  
19 deemed to be a truant. A finding that a child is  
20 truant by reason of failing to attend competent  
21 private instruction under chapter 299A, however, shall  
22 not by itself mean that the child is a child in need  
23 of assistance within the meaning of chapter 232 and  
24 shall not be the sole basis for a child in need of  
25 assistance petition."

26 3. By renumbering as necessary.

By AL STURGEON  
RAY TAYLOR

ADOPTED  
(P. 995) 4.4.94

S-5442 FILED APRIL 4, 1994  
ADOPTED (P. 995)

## SENATE FILE 2319

S-5414

1 Amend Senate File 2319 as follows:

2 1. Page 3, lines 21 and 22, by striking the words  
3 "or attempt to purchase".

4 2. Page 4, by inserting after line 1 the  
5 following:

6 "Sec. \_\_\_\_ . Section 232.78, subsection 1,  
7 unnumbered paragraph 1, Code 1993, is amended to read  
8 as follows:

9 The juvenile court may enter an ex parte order  
10 directing a peace officer or a juvenile court officer  
11 to take custody of a child before or after the filing  
12 of a petition under this chapter provided all of the  
13 following apply:

14 Sec. \_\_\_\_ . Section 232.79, subsection 1, unnumbered  
15 paragraph 1, Code 1993, is amended to read as follows:

16 A peace officer or juvenile court officer may take  
17 a child into custody, ~~or a physician treating a child~~  
18 may keep the child in custody, or a juvenile court  
19 officer may authorize a peace officer, physician, or  
20 medical security personnel to take a child into  
21 custody, without a court order as required under  
22 section 232.78 and without the consent of a parent,  
23 guardian, or custodian provided that both of the  
24 following apply:"

25 3. Page 9, line 23, by inserting after the word  
26 "eighteen." the following: "A person who has been  
27 issued a motor vehicle operator's license who does not  
28 attend a public school, an accredited nonpublic  
29 school, competent private instruction in accordance  
30 with the provisions of chapter 299A, an alternative  
31 school, or adult education classes, shall surrender  
32 the license and be issued a temporary restricted  
33 license under section 321.215."

34 4. Page 10, lines 1 and 2, by striking the words  
35 "or attempt to purchase".

36 5. Page 10, by inserting after line 9 the  
37 following:

38 "Sec. \_\_\_\_ . NEW SECTION. 321.213B REVOCATION FOR  
39 FAILURE TO ATTEND.

40 The department shall establish procedures by rule  
41 for revoking the license of a juvenile who is in  
42 violation of section 299.13 or issuing the juvenile a  
43 temporary restricted license under section 321.215 if  
44 the juvenile is employed at least twenty hours per  
45 week."

46 6. Page 11, by inserting after line 19 the  
47 following:

48 "Sec. \_\_\_\_ . NEW SECTION. 724.4A WEAPONS FREE  
49 ZONES -- ENHANCED PENALTIES.

50 1. As used in this section, "weapons free zone"

S-5414

-1-

S-5414

Page 2

1 means the area in or on, or within one thousand feet  
2 of, the real property comprising a public or private  
3 elementary or secondary school, or in or on the real  
4 property comprising a public park. A weapons free  
5 zone shall not include that portion of a public park  
6 designated as a hunting area under section 461A.42.

7 2. Notwithstanding sections 902.9 and 903.1, a  
8 person who commits a public offense involving a  
9 firearm or offensive weapon, within a weapons free  
10 zone, in violation of this or any other chapter shall  
11 be subject to a fine of twice the maximum amount which  
12 may otherwise be imposed for the public offense."

13 7. Page 16, by striking lines 24 through 26 and  
14 inserting the following: "to the division of criminal  
15 and juvenile justice planning of the department of  
16 human rights for youthful offender programs in two or  
17 more cities:"

18 8. Page 17, by inserting after line 18 the  
19 following:

20 "Sec. \_\_\_\_ . STUDY. The division of criminal and  
21 juvenile justice planning of the department of human  
22 rights shall study and compare rates of recidivism and  
23 rehabilitation for similar offenses in juveniles  
24 adjudicated delinquent versus juveniles waived to and  
25 convicted of an offense in the district court and the  
26 frequency and severity of sanctions imposed upon  
27 juveniles by the juvenile court versus those imposed  
28 by the district court for juveniles waived to the  
29 district court for similar offenses. The division  
30 shall report the results of its study to the general  
31 assembly by January 15, 1995."

32 9. By renumbering as necessary.

By RALPH ROSENBERG  
O. GENE MADDOX

S-5414 FILED APRIL 4, 1994  
ADOPTED (p. 981)

S-5415

Page 11

1 5. By renumbering as necessary.

By TONY BISIGNANO

S-5415 FILED APRIL 4, 1994  
RULED OUT OF ORDER (p. 984)

## SENATE FILE 2319

S-5418

1 Amend Senate File 2319 as follows:

2 1. Page 2, by inserting after line 13 the  
3 following:4 "Sec. \_\_\_\_ . NEW SECTION. 124.406A USE OF PERSONS  
5 UNDER AGE EIGHTEEN IN THE DRUG TRADE.6 It is unlawful for a person who is eighteen years  
7 of age or older to act with, enter into a common  
8 scheme or design with, conspire with, recruit, or use  
9 a person under the age of eighteen for the purpose of  
10 delivering or manufacturing a controlled substance  
11 classified in schedule I through V. A person  
12 violating this section commits a class "C" felony and  
13 shall serve a minimum term of five years of  
14 confinement and no part of the judgment or sentence  
15 shall be suspended or deferred, notwithstanding  
16 section 907.3."

17 2. By renumbering as necessary.

By MAGGIE TINSMAN  
SHELDON RITTMER  
DERRYL McLARENS-5418 FILED APRIL 4, 1994  
ADOPTED *as amended* (p. 992)

## SENATE FILE 2319

S-5419

1 Amend Senate File 2319 as follows:

2 1. Page 1, line 16, by inserting after the word  
3 "purchase" the following: "or attempt to purchase".By ALLEN BORLAUG  
MAGGIE TINSMAN  
JOHN P. KIBBIES-5419 FILED APRIL 4, 1994  
ADOPTED (p. 982)

## SENATE FILE 2319

S-5422

1 Amend Senate File 2319 as follows:

2 1. Page 12, by striking lines 1 through 9.

By ALLEN BORLAUG

S-5422 FILED APRIL 4, 1994  
LOST (p. 984)

## SENATE FILE 2319

S-5424

- 1 Amend Senate File 2319 as follows:  
2 1. Page 14, by striking lines 9 through 19 and  
3 inserting the following:  
4 "Sec. \_\_\_\_ . Section 914.7, Code 1993, is amended by  
5 adding the following new unnumbered paragraph:  
6 NEW UNNUMBERED PARAGRAPH. Notwithstanding any  
7 provision of this chapter, a person seventeen years of  
8 age or younger who commits a public offense involving  
9 a firearm which is an aggravated misdemeanor against a  
10 person or a felony shall not have the person's rights  
11 of citizenship restored to the extent of allowing the  
12 person to receive, transport, or possess firearms."  
13 2. By renumbering as necessary.

By RALPH ROSENBERG  
O. GENE MADDOX

S-5424 FILED APRIL 4, 1994

ADOPTED (p. 984)

## SENATE FILE 2319

S-5425

- 1 Amend Senate File 2319 as follows:  
2 1. Page 12, line 18, by inserting after the word  
3 "felony." the following: "This section shall not  
4 apply to ammunition that is commonly used in a rifle  
5 or shotgun."

By RANDAL GIANNETTO

S-5425 FILED APRIL 4, 1994

ADOPTED (p. 984)

## SENATE FILE 2319

S-5426

- 1 Amend the amendment, S-5418, to Senate File 2319 as  
2 follows:  
3 1. Page 1, line 12, by striking the words "felony  
4 and" and inserting the following: "felony."  
5 2. Page 1, by striking lines 13 through 16.

By MICHAEL E. GRONSTAL

S-5426 FILED APRIL 4, 1994

ADOPTED (p. 984)



## SENATE FILE 2319

S-5410

1 Amend Senate File 2319 as follows:

2 1. Page 15, by striking lines 20 through 33 and  
3 inserting the following:  
4 "Sec. \_\_\_\_ . APPROPRIATIONS -- JUVENILE ACADEMY  
5 PILOT PROJECT. Within the funds appropriated to the  
6 department of human services for child and family  
7 services, the department shall, effective January 1,  
8 1995, establish a three-year pilot project for the  
9 development of an academy for juveniles who have been  
10 adjudicated delinquent. The department shall select  
11 the site for the project on a competitive basis. In  
12 establishing the pilot project criteria, the  
13 department shall consider other states' efforts and  
14 experiences in developing and establishing residential  
15 programs for juveniles who have been adjudicated  
16 delinquent, as well as the problems and successes  
17 experienced in existing programs for youthful  
18 offenders in this state.

19 1. The goals of the project shall include, but are  
20 not limited to, reducing the incidence of criminal  
21 activities by certain youthful offenders, improving  
22 the chances of correction and successful return of  
23 youthful offenders to the community, providing  
24 offenders with the skills necessary for living and  
25 rehabilitation, and providing a cost-effective  
26 alternative to other more restrictive dispositions.  
27 Juvenile academy programs shall take a holistic  
28 approach to providing services to program participants  
29 and shall include, but are not limited to, the  
30 following components:

- 31 (a) Intensive educational services.
- 32 (b) Mental health and substance abuse treatment.
- 33 (c) Nonmilitaristic discipline.
- 34 (d) Proper diet.
- 35 (e) Exercise.
- 36 (f) Self-esteem building.
- 37 (g) An internal sanctioning structure.
- 38 (h) An aftercare plan.
- 39 (i) An evaluation component.

40 2. The project shall specify that any juvenile  
41 academy program developed shall not utilize more than  
42 one facility. Program participants shall be  
43 determined on a statewide basis by the juvenile court  
44 based upon the court's assessment of a particular  
45 juvenile delinquent's amenability to successful  
46 completion of a juvenile academy program. The  
47 department shall adopt rules which provide the court  
48 with objective criteria to consider in determining  
49 whether placement of a juvenile in a juvenile academy  
50 is appropriate. Placement criteria shall include, but

S-5410

S-5410

Page 2

1 are not limited to, the following:

2 (a) Juvenile academy participation will provide an  
3 alternative to placement of the individual in a more  
4 restrictive setting.

5 (b) Individuals selected shall meet the criteria  
6 established in section 232.52.

7 (c) The individual is at least somewhat amenable  
8 to treatment.

9 (d) The individual is within the age range of  
10 fifteen to eighteen years of age.

11 (e) The individual does not have physical or  
12 mental characteristics that would cause placement in a  
13 juvenile academy to be detrimental to the person's  
14 physical or mental health.

15 3. The department shall adopt rules establishing  
16 criteria for facilities for and the employment of  
17 staff at a juvenile academy. In establishing  
18 criteria, the department shall consider requirements  
19 established for secure facilities for juveniles and  
20 adult correctional institutions and for staff employed  
21 at those facilities and institutions.

22 4. Each juvenile academy resident shall be  
23 informed of the sanctions and discipline that will  
24 result from violation of juvenile academy policies.  
25 Juvenile academy rules and regulations shall be well  
26 publicized within the juvenile academy setting.  
27 Juvenile academy discipline and sanctions shall  
28 provide for immediate incremental punishments for rule  
29 violations and lack of progress. Voluntary  
30 withdrawals and program terminations shall be  
31 discouraged as sanctions.

32 5. The juvenile academy aftercare program shall  
33 emphasize individual, family, and community support.  
34 Aftercare programming shall be performed by local  
35 providers who shall be familiar with the juvenile and  
36 the juvenile's family prior to, and during the course  
37 of, the participation of the juvenile in the juvenile  
38 academy program. Aftercare programming shall be  
39 developed cooperatively by juvenile academy staff and  
40 aftercare providers and shall include a wide range of  
41 incremental sanctions designed to prevent the juvenile  
42 from committing new criminal offenses. Aftercare  
43 programs may include, but are not limited to, a  
44 continuation of any appropriate substance abuse  
45 treatment, continuation of or additional educational  
46 programming, community service work, employment skills  
47 training, drug and alcohol screening as appropriate,  
48 in-home visits by the aftercare provider, imposition  
49 of and compliance with curfew hours, a prohibition of  
50 participation in any gang activity as appropriate, and

S-5410

-2-

S-5410

Page 3

1 participation in mentoring programs.  
2 6. In addition to any internal juvenile academy  
3 evaluation program, the division of criminal and  
4 juvenile justice planning of the department of human  
5 rights shall annually monitor the effect of any  
6 juvenile academy programs established under the pilot  
7 project on recidivism and rehabilitation of  
8 delinquents who participated in the programs and  
9 report any findings to the general assembly. The  
10 division, in cooperation with the department of human  
11 services, shall conduct a comprehensive review of the  
12 program and submit the findings in a report to the  
13 general assembly by January 15, 1998."  
14 2. By numbering and renumbering and correcting  
15 internal references as necessary.

By PAUL D. PATE

S-5410 FILED APRIL 4, 1994

LOST (p. 983)

## SENATE FILE 2319

S-5413

1 Amend Senate File 2319 as follows:  
2 1. Page 12, by inserting after line 21 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 724.22, subsection 7, Code  
5 1993, is amended by striking the subsection and  
6 inserting in lieu thereof the following:  
7 7. ACCESS TO FIREARMS AND AMMUNITION BY CHILDREN  
8 RESTRICTED -- PENALTY. A person shall not store or  
9 leave a loaded or unloaded firearm or ammunition in a  
10 place which is accessible to a minor under the age of  
11 fourteen years if the firearm is not secured by a  
12 trigger lock mechanism, or if the firearm or  
13 ammunition is not placed in a securely locked box or  
14 container, or placed in some other location which is  
15 designed to prevent access to the firearm or  
16 ammunition. This subsection does not apply if the  
17 minor obtains the firearm or ammunition as a result of  
18 an unlawful entry by any person. A violation of this  
19 section is punishable as a serious misdemeanor."  
20 2. By renumbering as necessary.

By TONY BISIGNANO

S-5413 FILED APRIL 4, 1994

LOST (p. 982)

SENATE FILE 2319

S-5399

- 1 Amend Senate File 2319 as follows:  
2 1. By striking page 13, line 23 through page 14,  
3 line 2 and inserting the following:  
4 "Sec. \_\_\_\_ Section 808A.2, Code 1993, is amended  
5 by adding the following new subsection:  
6 NEW SUBSECTION. 4. If a search pursuant to  
7 subsection 1 of a school locker, desk, or other  
8 facility or space issued or assigned to, or chosen by  
9 a student, reveals a violation of the law or the rules  
10 of the school regarding a dangerous weapon or  
11 controlled substance, the violation shall constitute  
12 reasonable grounds for future searches without advance  
13 notice to the student of the student's school locker,  
14 desk, or other facility or space issued or assigned  
15 to, or chosen by the student."  
16 2. By renumbering as necessary.

By COMMITTEE ON EDUCATION  
MIKE CONNOLLY, Chairperson

S-5399 FILED MARCH 31, 1994  
*Adopted 4/4/94 (p. 981)*

SENATE FILE 2319

S-5431

1 Amend Senate File 2319 as follows:

2 1. Page 2, by inserting after line 13 the  
3 following:

4 "Sec. \_\_\_\_ . Section 232.2, subsection 6, Code  
5 Supplement 1993, is amended by adding the following  
6 new paragraph:

7 NEW PARAGRAPH. p. Who is a truant as defined in  
8 section 299.8.

9 Sec. \_\_\_\_ . Section 232.2, subsection 12, Code  
10 Supplement 1993, is amended by adding the following  
11 new paragraph:

12 NEW PARAGRAPH. c. The violation of the statutory  
13 compulsory attendance age requirement or the  
14 attendance policy of a public school, an accredited  
15 nonpublic school, or competent private instruction  
16 which results in the child being deemed a truant  
17 pursuant to section 299.8."

18 2. Page 9, by striking lines 24 through 28 and  
19 inserting the following:

20 "Sec. \_\_\_\_ . Section 299.8, Code 1993, is amended to  
21 read as follows:

22 299.8 "TRUANT" DEFINED.

23 Any child of compulsory attendance age who fails to  
24 attend school as provided in this chapter, or as  
25 required by the school board's or school governing  
26 body's attendance policy, or who fails to attend  
27 competent private instruction under chapter 299A,  
28 without reasonable excuse for the absence, shall be  
29 deemed to be a truant. ~~A finding that a child is~~  
30 ~~truant, however, shall not by itself mean that the~~  
31 ~~child is a child in need of assistance within the~~  
32 ~~meaning of chapter 232 and shall not be the sole basis~~  
33 ~~for a child in need of assistance petition."~~

34 3. By renumbering as necessary.

By AL STURGEON  
TONY BISIGNANO

S-5431 FILED APRIL 4, 1994

WITHDRAWN (p. 992)

SENATE FILE 2319

S-5430

1 Amend Senate File 2319 as follows:

2 1. Page 15, by inserting after line 33 the  
3 following:

4 "No sooner than one year after the establishment of  
5 the highly structured facilities, all youth who are  
6 adjudicated delinquent for acts involving possession  
7 of a firearm on the premises of or transportation of a  
8 firearm to a school shall be placed in the facilities.  
9 Prior to placement of the adjudicated delinquents in  
10 the facilities for possession or transportation of  
11 firearms to or on school premises the department of  
12 human services, in cooperation with the department of  
13 education and the office of attorney general, shall  
14 advertise, through use of radio, television, print,  
15 and other media, the consequences of possession of  
16 firearms on or transportation of firearms to school  
17 premises."

By BRAD BANKS

S-5430 FILED APRIL 4, 1994

ADOPTED- MOTION TO RECONSIDER, ADOPTED, LOST

## SENATE FILE 2319

S-5434

1 Amend Senate File 2319 as follows:

2 1. Page 12, by inserting before line 35 the

3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 724.30 RECKLESS USE OF A  
5 FIREARM.

6 A person who intentionally discharges a firearm  
7 commits the following:

8 1. A class "C" felony if a serious injury or over  
9 one thousand dollars of property damage occurs.

10 2. A class "D" felony if a bodily injury which is  
11 not a serious injury or property damage of one  
12 thousand dollars or less occurs.

13 3. A simple misdemeanor if no injury to a person  
14 or damage to property occurs.

15 Sec. \_\_\_\_ . NEW SECTION. 724.31 GUN BUY-BACK --  
16 EXCEPTIONS.

17 Firearms bought through a gun buy-back program  
18 shall be screened through the national crime  
19 information center to determine if the firearms are  
20 stolen. If a firearm was stolen, it shall be returned  
21 to its owner or to the insurance company which paid a  
22 claim for the stolen firearm. Section 724.16A does  
23 not apply to a person who purchases stolen firearms  
24 through a buy-back program approved by the department  
25 of public safety if the firearms are destroyed or  
26 returned to their rightful owners."

27 2. By renumbering as necessary.

By JOE WELSH

S-5434 FILED APRIL 4, 1994  
WITHDRAWN (p.992)

## SENATE FILE 2319

S-5435

1 Amend the amendment, S-5418, to Senate File 2319,  
2 as follows:

3 1. Page 1, by striking lines 7 and 8, and  
4 inserting the following: "of age or older to conspire  
5 with or recruit".

6 2. Page 1, line 11, by striking the figure "V"  
7 and inserting the following: "IV".

By MAGGIE TINSMAN  
O. GENE MADDOX  
RALPH ROSENBERG

S-5435 FILED APRIL 4, 1994  
ADOPTED (p.992)

SENATE FILE 2319  
FISCAL NOTE

---

A fiscal note for Amendment S-5437 to Senate File 2319 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

Amendment S-5437 to Senate File 2319 changes statutory provisions to permit a truant to be declared a Child in Need of Assistance (CINA) or be adjudicated as a delinquent, if the mediation required by Section 299.5A, Code of Iowa does not result in the child returning to school within 30 days.

## ASSUMPTIONS:

1. There are approximately 2,100 children who are chronic truants. It is assumed that children who are occasionally truant will not be referred for mediation.
2. Section 299.5A permits referrals for mediation only after a school has used every means available to the school to assure that the child does attend. The mediation process requires referrals to any agencies or counseling that the mediator believes to be appropriate under the circumstances. The local school district is responsible for monitoring any agreements arrived at through mediation. It is assumed that children who have been through the mediation process will receive a variety of social services.
3. There is no detailed information concerning the number of truants currently referred to mediation. Mediation is not extensively used in many areas of the State. In areas where mediation is frequently used it is effective: the Des Moines School District reports that 85.0% of students will return to school after the mediation process is completed.
4. It is assumed that only a portion of the children who do not return to school after mediation will be declared either CINA or adjudicated delinquent.

## FISCAL EFFECT:

Because comprehensive information concerning the use of the mediation process is not available, an accurate estimate of the General Fund impact of this amendment can not be determined. Assuming 85.0% of the chronic truants return to school after mediation and 25.0% of the truants who do not return are either declared CINA or adjudicated delinquent, the estimated annual cost is approximately \$400,000. This amendment will encourage local school districts to expand their use of truancy mediation, possibly incurring additional costs.

The provisions of this amendment may jeopardize Iowa's continued eligibility for \$600,000 of federal funds under the Juvenile Justice and Delinquency Prevention Act (JJDP). This Act does not allow the use of detention or secure facilities for status offenses. Status offenses are not a crime if committed

PAGE 2 , FISCAL NOTE, SENATE FILE 2319

-2-

by an adult.

Sources: Local School Districts  
Department of Education  
Department of Human Rights  
Department of Human Services

(LSB 3625sz, JMN)

FILED APRIL 12, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR



## STATE OF IOWA

FISCAL NOTELSB No. 3625SZ.2Staff ID. JMN

A Correctional Impact Statement for Amendment H-6057 to Senate File 2319, as amended by the House, is hereby submitted. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment H-6057 to Senate File 2319, as amended by the House, is estimated to have the following correctional impact:

1. Providing that a person bringing drugs or causing drugs to be brought into the State will receive a sentence 2 times the term otherwise imposed and may not receive a deferred judgement. It is estimated that 4 offenders per year will be sentenced to 50-year maximum prison terms; expected time served will increase by 32 months. It is estimated that 1 offender per year will be sentenced to a 40-year maximum; expected time served will increase by 40 months. It is estimated that 4 offenders per year will be sentenced to a 20-year sentence; expected time served will increase by 20 months. It is estimated that 4 offenders will be sentenced to a 10-year maximum; expected time served will increase by 6 months.
2. Allows counterfeit substances and simulated controlled substances to be included in a possession charge, and changes the penalties for possession of certain substances from a serious misdemeanor to a Class D felony. It is estimated that in FY 1995 there will be an additional 43 admissions to prison, 14 admissions to Community-Based Corrections (CBC) facilities, 36 admissions to the CBC Parole/Probation Program, and a reduction of 68 jail admissions. It is estimated that in FY 1996 there will be an additional 89 admissions to prison, 29 admissions to CBC facilities, 74 admissions to the CBC Parole/Probation Program, and a reduction of 142 admissions to jail. It is estimated that in FY 1999 there will be an additional 113 admissions to prison, 33 admissions to CBC facilities, 85 admissions to the CBC Parole/Probation Program, and a reduction of 164 admissions to jail.
3. Expands applicability of penalties by including persons who possess with intent to distribute any Schedule I or II substance, and deletes Schedule I and II substances from the provision which classifies distribution of controlled substances to a minor at least 3 years younger than the violator as a Class C felony. No significant impact on the correctional system is expected.
4. Creates an offense for using a minor for the purpose of delivering or manufacturing a controlled substance. The offense is a Class B felony, subject to a mandatory term of 5 years. An additional 2 admissions to prison in FY 1995 and an additional 4 admissions each year thereafter are estimated.
5. Increases the penalty for contributing to the delinquency of a minor by encouraging a child under 18 to commit an act of delinquency, from a simple to a serious misdemeanor. No significant impact on the correctional system is expected.
6. Establishes weapon free zones on or within 1,000 feet of the property of

Representative Kreiman

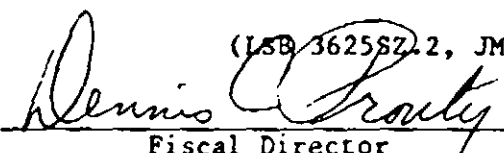
STATE OF IOWA  
FISCAL NOTELSB No. 3625SZ.2  
Staff ID. JMN

-2-

a public or private elementary or secondary school, in a public park. Persons committing public offenses involving firearms or offensive weapons in a weapons free zone are subject to enhanced penalties. An additional 4 admissions to prison and 1 admission to jail in FY 1995 and an additional 8 admissions to prison and 2 admissions to jail each year thereafter are estimated.

7. Increases the penalties for transferring or making available a rifle, shotgun, or ammunition for either, to minors and for transferring or making available a handgun or handgun ammunition to persons under age to 21. No significant impact on the correctional system is expected in FY 1995 and FY 1996. In FY 1999, 1 additional admission to prison, 1 additional admission to the CBC Parole/Probation Program, and 2 additional admissions to jail are estimated.
8. Provides that a sentence imposed on a person for using a minor for the purpose of delivering or manufacturing a controlled substance shall not be deferred or suspended. The correctional impact of this language is included in number 4, above.
9. Increases penalties for persons age 18, 19, or 20 who has liquor, beer or wine in their possession or control. No significant impact on the correctional system is expected.
10. Expands the definition of drug free zones to include specified locations. This will increase the time served in prison and is estimated to increase the prison population by 5 to 6 inmates.
11. Increases penalties for persons who commit 3 or more acts of child endangerment. This will increase sentences to prison by 12 persons.
12. Provides penalties for a person who intentionally discharges a firearm in a reckless manner. The correctional impact of this language can not be determined.
13. Adds community service as an option for persons possessing a controlled substance in a drug free zone. This will add fewer than 10 persons annually to CBC community service supervision caseloads.
14. Creates a new Sexually Violent Predator Act. This is not expected to have a significant impact on the correctional system.

Sources: Department of Human Rights  
Department of Human Services

  
Fiscal Director  
Legislative Fiscal Bureau  
Date: 4/12/94

(LSB 3625SZ.2, JMN)

**SENATE FILE 2319  
FISCAL NOTE**

---

The estimate for Senate File 2319 as amended is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

Senate File 2319, as amended by the House, is estimated to have the following correctional impact:

1. Provides that a person bringing drugs or causing drugs to be brought into the State will receive a sentence 2 times the term otherwise imposed and may not receive a deferred judgement. It is estimated that 4 offenders per year will be sentenced to 50-year maximum prison terms; expected time served will increase by 32 months. It is estimated that 1 offender per year will be sentenced to a 40-year maximum; expected time served will increase by 40 months. It is estimated that 4 offenders per year will be sentenced to a 20-year sentence; expected time served will increase by 20 months. It is estimated that 4 offenders will be sentenced to a 10-year maximum; expected time served will increase by 6 months.
2. Allows counterfeit substances and simulated controlled substances to be included in a possession charge, and changes the penalties for possession of certain substances from a serious misdemeanor to a Class D felony. It is estimated that in FY 1995 there will be an additional 43 admissions to prison, 14 admissions to Community-Based Corrections (CBC) facilities, 36 admissions to the CBC Parole/Probation Program, and a reduction of 68 jail admissions. It is estimated that in FY 1996 there will be an additional 89 admissions to prison, 29 admissions to CBC facilities, 74 admissions to the CBC Parole/Probation Program, and a reduction of 142 admissions to jail. It is estimated that in FY 1999 there will be an additional 113 admissions to prison, 33 admissions to CBC facilities, 85 admissions to the CBC Parole/Probation Program, and a reduction of 164 admissions to jail.
3. Expands applicability of penalties by including persons who possess with intent to distribute any Schedule I or II substance, and deletes Schedule I and II substances from the provision which classifies distribution of controlled substances to a minor at least 3 years younger than the violator as a Class C felony. No significant impact on the correctional system is expected.
4. Creates an offense for using a minor for the purpose of delivering or manufacturing a controlled substance. The offense is a Class B felony, subject to a mandatory term of 5 years. An additional 2 admissions to prison in FY 1995 and an additional 4 admissions each year thereafter are estimated.

-2-

5. Increases the penalty for contributing to the delinquency of a minor by encouraging a child under 18 to commit an act of delinquency, from a simple to a serious misdemeanor. No significant impact on the correctional system is expected.
6. Establishes weapon free zones on or within 1,000 feet of the property of a public or private elementary or secondary school, in a public park. Persons committing public offenses involving firearms or offensive weapons in a weapons free zone are subject to enhanced penalties. An additional 4 admissions to prison and 1 admission to jail in FY 1995 and an additional 8 admissions to prison and 2 admissions to jail each year thereafter are estimated.
7. Increases the penalties for transferring or making available a rifle, shotgun, or ammunition for either, to minors and for transferring or making available a handgun or handgun ammunition to persons under age to 21. No significant impact on the correctional system is expected in FY 1995 and FY 1996. In FY 1999, 1 additional admission to prison, 1 additional admission to the CBC Parole/Probation Program, and 2 additional admissions to jail are estimated.
8. Provides that a sentence imposed on a person for using a minor for the purpose of delivering or manufacturing a controlled substance shall not be deferred or suspended. The correctional impact of this language is included in number 4, above.
9. Increases penalties for persons age 18, 19, or 20 who has liquor, beer or wine in their possession or control. No significant impact on the correctional system is expected.
10. Expands the definition of drug free zones to include specified locations. This will increase the time served in prison and is estimated to increase the prison population by 5 to 6 inmates.
11. Increases penalties for persons who commit 3 or more acts of child endangerment. This will increase sentences to prison by 12 persons.
12. Provides penalties for a person who intentionally discharges a firearm in a reckless manner. The correctional impact of this language can not be determined.
13. Adds community service as an option for persons possessing a controlled substance in a drug free zone. This will add fewer than 10 persons annually to CBC community service supervision caseloads.
14. Creates a new Sexually Violent Predator Act. This is not expected to have a significant impact on the correctional system.

Total impact of the bill as amended by the House on the prison population is an increase of 66 in FY 1995, 147 in FY 1996, and 256 in FY 1999. This will result in increased General Fund expenditures of \$240,000 in FY 1995, \$540,000 in FY 1996, and \$930,000 in FY 1999.

Sources: Department of Human Rights  
Department of Human Services

(LSB 3625sz.3, JMN)

(P. 1134) 4-5-94 House - Approp.  
(P. 1163) 4-5-94 House - Do Pass  
(P. 1351) 4-8-94 House - Amend/Do Pass  
(P. 1394) 4-11-94 w/H. 6057 Do Pass

SENATE FILE **2319**  
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SF 2305)

(AS AMENDED AND PASSED BY THE SENATE APRIL 4, 1994)

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

Passed Senate, Date 4/4/94 (P. 996) Passed House, Date 4/12/94  
Vote: Ayes 49 Nays 0 Vote: Ayes 82 Nays 14

House Approved May 12, 1994  
Conf. Comm. 4/14/94  
Rosenberg, Droucky, Gershtal  
Maddox, Sinsman

Passed 4-18-94 (P. 1901)  
House vote 100-0  
Clark, Brammer, Martin,  
McKinney + Rafferty

A BILL FOR

1 An Act relating to juvenile justice by providing in-service  
 2 training requirements for law enforcement officers;  
 3 prohibiting the purchase of alcoholic liquor, wine, or beer by  
 4 juveniles and imposing a penalty; imposing a scheduled fine  
 5 against persons holding liquor licenses for allowing persons  
 6 under legal drinking age to obtain or consume alcoholic  
 7 beverages; providing concurrent jurisdiction for magistrates  
 8 over juveniles who possess or purchase alcoholic beverages;  
 9 authorizing detention hearings to be held in the county in  
 10 which the juvenile is detained; subjecting a juvenile to  
 11 permanent waiver to the district court after conviction for an  
 12 aggravated misdemeanor committed against a person; providing  
 13 for the suspension of the motor vehicle license or operating  
 14 privilege of a juvenile for two or more delinquent acts  
 15 involving alcoholic beverages or controlled substances;  
 16 providing that the juvenile court may require parental or  
 17 guardian involvement in the probation plan for a juvenile and  
 18 permit grandparent involvement in child in need of assistance  
 19 proceedings; changing the requirements for terminating

S.F. 2319

1 parental rights in certain circumstances; providing for the  
2 retention of fingerprint and photograph records of juveniles  
3 over fourteen years of age; establishing a community grant  
4 fund for juvenile crime prevention programs; encouraging the  
5 adoption of alternative options educational programs by school  
6 districts and authorizing the use of phase III moneys for the  
7 development of certain instructional programs; providing that  
8 a juvenile not attending school or other educational program  
9 or working at least twenty hours per week shall not receive a  
10 motor vehicle license; authorizing a truancy mediator to refer  
11 a truant to juvenile court; making changes to the manner in  
12 which associate juvenile judge decisions are appealed;  
13 increasing parental financial responsibility for the acts of  
14 children; creating new weapons offenses and establishing or  
15 enhancing penalties for weapons offenses; enhancing penalties  
16 for child endangerment; providing for searches of student  
17 lockers without advance notice under certain circumstances;  
18 establishing a parenting pilot project; and making  
19 appropriations.

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

21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1 Section 1. Section 80B.11, subsection 3, Code Supplement  
2 1993, is amended by adding the following new unnumbered  
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. In-service training under this  
5 section shall include the requirement that all law enforcement  
6 officers complete a course involving expanded racial and  
7 cultural awareness training and dealing with gang-affected  
8 youth.

9 Sec. 2. Section 123.47, Code 1993, is amended to read as  
10 follows:

11 123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

12 A person shall not sell, give, or otherwise supply  
13 alcoholic liquor, wine, or beer to any person knowing or  
14 having reasonable cause to believe that person to be under the  
15 age of eighteen, and a person or persons under the age of  
16 eighteen shall not purchase or attempt to purchase, or  
17 individually or jointly have alcoholic liquor, wine, or beer  
18 in their possession or control; except in the case of liquor,  
19 wine, or beer given or dispensed to a person under the age of  
20 eighteen within a private home and with the knowledge and  
21 consent of the parent or guardian for beverage or medicinal  
22 purposes or as administered to the person by either a  
23 physician or dentist for medicinal purposes and except to the  
24 extent that a person under the age of eighteen may handle  
25 alcoholic beverages, wine, and beer during the regular course  
26 of the person's employment by a liquor control licensee, or  
27 wine or beer permittee under this chapter. A person, other  
28 than a licensee or permittee, who violates this section  
29 regarding the purchase of alcoholic liquor, wine, or beer  
30 shall pay a twenty-five dollar penalty.

31 Sec. 3. Section 123.49, subsection 2, paragraph h, Code  
32 1993, is amended to read as follows:

33 h. Sell, give, or otherwise supply any alcoholic beverage,  
34 wine, or beer to any person, knowing or ~~having-reasonable~~  
35 ~~cause-to-believe-the-person-to-be~~ failing to exercise

1 reasonable care to ascertain whether the person is under legal  
2 age, or permit any person, knowing or ~~having-reasonable-cause~~  
3 ~~to-believe-the-person-to-be~~ failing to exercise reasonable  
4 care to ascertain whether the person is under legal age, to  
5 consume any alcoholic beverage, wine, or beer.

6 Sec. 4. Section 123.50, subsection 1, Code Supplement  
7 1993, is amended to read as follows:

8 1. Any person who violates any of the provisions of  
9 section 123.49, except subsection 2, paragraph "h", shall be  
10 guilty of a simple misdemeanor. A person who violates section  
11 123.49, subsection 2, paragraph "h", commits a simple  
12 misdemeanor punishable as a scheduled violation under section  
13 805.8, subsection 10, paragraph "b".

14 Sec. 5. NEW SECTION. 124.406A USE OF PERSONS UNDER AGE  
15 EIGHTEEN IN THE DRUG TRADE.

16 It is unlawful for a person who is eighteen years of age or  
17 older to conspire with or recruit a person under the age of  
18 eighteen for the purpose of delivering or manufacturing a  
19 controlled substance classified in schedule I through IV. A  
20 person violating this section commits a class "C" felony.

21 Sec. 6. Section 232.8, subsection 1, Code 1993, is amended  
22 by adding the following new paragraph:

23 NEW PARAGRAPH. c. The juvenile court or a magistrate may  
24 preside over an action regarding a violation of section 123.47  
25 committed by a child.

26 Sec. 7. Section 232.44, subsection 1, Code 1993, is  
27 amended by adding the following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. If the child is placed in a  
29 detention facility in a county other than the county in which  
30 the child resides or in which the delinquent act allegedly  
31 occurred but which is within the same judicial district, the  
32 hearing may take place in the county in which the detention  
33 facility is located.

34 Sec. 8. Section 232.45A, subsection 2, Code 1993, is  
35 amended to read as follows:



1        2. Once a child sixteen years of age or older has been  
2 waived to and convicted of an aggravated misdemeanor committed  
3 against a person or a forcible felony or a felony violation of  
4 section 124.401 or chapter 707 by the district court, all  
5 criminal proceedings against the child for any ~~forcible-felony~~  
6 ~~or-a-felony-violation-of-section-124.401-or-chapter-707~~  
7 aggravated misdemeanor or felony occurring subsequent to the  
8 date of the conviction of the child shall begin in district  
9 court, notwithstanding sections 232.8 and 232.45. A copy of  
10 the findings required by section 232.45, subsection 8, shall  
11 be made a part of the record in the district court  
12 proceedings.

13        Sec. 9. Section 232.45A, subsection 3, Code 1993, is  
14 amended to read as follows:

15        3. If proceedings against a child for an aggravated  
16 misdemeanor committed against a person or a forcible felony or  
17 a felony violation of section 124.401 or chapter 707 who has  
18 previously been waived to and convicted of such an offense by  
19 the district court are mistakenly begun in the juvenile court,  
20 the matter shall be transferred to district court upon the  
21 discovery of the prior waiver and conviction, notwithstanding  
22 sections 232.8 and 232.45.

23        Sec. 10. Section 232.52, subsection 2, paragraph a, Code  
24 1993, is amended by adding the following new subparagraph:

25        NEW SUBPARAGRAPH. (4) The suspension of the motor vehicle  
26 license or operating privilege of the child for the commission  
27 of two or more delinquent acts which are a violation of  
\* 28 section 123.46, section 123.47 regarding the purchase of  
29 alcoholic beverages, or chapter 124, for a period of one year  
30 or until the child reaches the age of eighteen, whichever is  
31 longer. The child may be issued a temporary restricted  
32 license if the child is otherwise eligible.

33        Sec. 11. Section 232.52, subsection 2, paragraph c, Code  
34 1993, is amended by adding the following new unnumbered  
35 paragraph:

1 NEW UNNUMBERED PARAGRAPH. A parent or guardian may be  
2 required by the juvenile court to participate in educational  
3 or treatment programs as part of a probation plan if the court  
4 determines it to be in the best interest of the child. A  
5 parent or guardian who does not participate in the probation  
6 plan when required to do so by the court may be held in  
7 contempt.

8 Sec. 12. Section 232.78, subsection 1, unnumbered  
9 paragraph 1, Code 1993, is amended to read as follows:

10 The juvenile court may enter an ex parte order directing a  
11 peace officer or a juvenile court officer to take custody of a  
12 child before or after the filing of a petition under this  
13 chapter provided all of the following apply:

14 Sec. 13. Section 232.79, subsection 1, unnumbered  
15 paragraph 1, Code 1993, is amended to read as follows:

16 A peace officer or juvenile court officer may take a child  
17 into custody, or a physician treating a child may keep the  
18 child in custody, or a juvenile court officer may authorize a  
19 peace officer, physician, or medical security personnel to  
20 take a child into custody, without a court order as required  
21 under section 232.78 and without the consent of a parent,  
22 guardian, or custodian provided that both of the following  
23 apply:

24 Sec. 14. NEW SECTION. 232.91A GRANDPARENT INVOLVEMENT IN  
25 PROCEEDINGS.

26 The court, upon petition, may permit a grandparent of a  
27 child subject to judicial proceedings under this division to  
28 participate in the proceedings.

29 Sec. 15. Section 232.116, subsection 1, paragraph h, Code  
30 Supplement 1993, is amended to read as follows:

31 h. The court finds that both all of the following have  
32 occurred:

33 (1) The child meets the definition of child in need of  
34 assistance based on a finding of physical or sexual abuse or  
35 neglect as a result of the acts or omissions of one or both

1 parents.

2 (2) There is clear and convincing evidence that the  
3 ~~circumstances-surrounding the abuse or neglect of-the-child,~~  
4 ~~despite-the-receipt-of-services,-constitutes-imminent-danger~~  
5 to posed or poses a severe and significant risk to the health  
6 and safety of the child.

7 (3) There is clear and convincing evidence that the offer  
8 or receipt of services will not correct the conditions which  
9 led to the abuse or neglect within a reasonable period of  
10 time.

11 Sec. 16. Section 232.148, Code 1993, is amended to read as  
12 follows:

13 232.148 FINGERPRINTS -- PHOTOGRAPHS.

14 1. Except as provided in this section, a child shall not  
15 be fingerprinted or photographed by a criminal justice agency  
16 after the child is taken into custody.

17 2. Fingerprints and photographs of a child who has been  
18 taken into custody and who is fourteen years of age or older  
19 may be taken and filed by a criminal justice agency  
20 investigating the commission of a public offense ~~constituting~~  
21 a-felony other than a simple or serious misdemeanor. However,  
22 ~~fingerprint-and-photograph-files-of-a-child-who-enters-into-an~~  
23 ~~informal-adjustment-or-consent-decree-shall-be-retained-only~~  
24 ~~if-the-child-is-notified-at-the-time-of-entering-into-the~~  
25 ~~informal-adjustment-or-consent-decree-that-the-files-will-be~~  
26 ~~permanently-retained-by-the-criminal-justice-agency.~~ The  
27 criminal justice agency shall forward the fingerprints to the  
28 department of public safety for inclusion in the automated  
29 fingerprint identification system. However, unless otherwise  
30 authorized pursuant to section 232.45A or 690.4, or as  
31 otherwise authorized by law, a criminal history record shall  
32 not be created for inclusion in an automated system due to the  
33 retention of fingerprints pursuant to this section.

34 3. If a peace officer has reasonable grounds to believe  
35 that latent fingerprints found during the investigation of the

1 commission of a public offense are those of a particular  
2 child, fingerprints of the child may be taken for immediate  
3 comparison with the latent fingerprints regardless of the  
4 nature of the offense. ~~If the comparison is negative the~~  
5 ~~fingerprint card and other copies of the fingerprints taken~~  
6 ~~shall be immediately destroyed.~~ If the comparison is positive  
7 ~~and the child is referred to the court,~~ the fingerprint card  
8 and other copies of the fingerprints taken shall be delivered  
9 to the ~~court for disposition~~ division of criminal  
10 investigation of the department of public safety in the manner  
11 and on the forms prescribed by the commissioner of public  
12 safety within two working days of the time the fingerprints  
13 are taken. ~~If the child is not referred to the court, the~~  
14 ~~fingerprint card and copies of the fingerprints shall be~~  
15 ~~immediately destroyed.~~

16 4. ~~Fingerprint and photograph files of children shall be~~  
17 ~~kept separate from those of adults. -- Copies of fingerprints~~  
18 ~~and photographs of a child shall not be placed in any data~~  
19 ~~storage system established and maintained by the department of~~  
20 ~~public safety pursuant to chapter 692, or in any federal~~  
21 ~~depository for fingerprints.~~

22 5. Fingerprint and photograph files of children may be  
23 inspected by peace officers when necessary for the discharge  
24 of their official duties. The juvenile court may authorize  
25 other inspections of such files in individual cases upon a  
26 showing that inspection is necessary in the public interest.

27 6 5. Fingerprints and photographs of a child shall be  
28 removed from the file and destroyed if upon notification to  
29 the department that any of the following situations apply:

30 a. A petition alleging the child to be delinquent is not  
31 filed and the child has not entered into an informal  
32 adjustment, admitting involvement in a delinquent act alleged  
33 in the complaint.

34 b. After a petition is filed, the petition is dismissed or  
35 the proceedings are suspended and the child has not entered

1 into a consent decree and has not been adjudicated delinquent  
2 on the basis of a delinquent act other than one alleged in the  
3 petition in question.

4 c. Upon petition by the child when the child reaches  
5 twenty-one years of age and the child has not been adjudicated  
6 ~~a delinquent nor convicted of committing an aggravated~~  
7 ~~misdemeanor or a felony after reaching sixteen years of age~~  
8 convicted of a public offense.

9 Sec. 17. NEW SECTION. 232.190 COMMUNITY GRANT FUND.

10 1. A community grant fund is established in the state  
11 treasury under the control of the division of criminal and  
12 juvenile justice planning of the department of human rights  
13 for the purposes of awarding grants under this section. The  
14 criminal and juvenile justice planning advisory council and  
15 the juvenile justice advisory council shall assist the  
16 division in administering grants awarded under this section.  
17 The department of human services shall advise the division on  
18 programs which meet the criteria established for grant  
19 recipients. Not more than one percent of the moneys  
20 appropriated to the fund shall be used for administrative  
21 purposes.

22 2. A city, county, or entity organized under chapter 28E  
23 may apply to the department for a grant on a matching basis to  
24 fund juvenile crime prevention programs. The match may come  
25 from funds provided to the city, county, or entity organized  
26 under chapter 28E from private sources, other state programs,  
27 or federal programs. A city, county, or entity organized  
28 under chapter 28E applying for a grant under this section is  
29 encouraged to seek matching funds from, but not limited to,  
30 the Iowa finance authority, the governor's alliance on  
31 substance abuse, and under the state and federal community  
32 reinvestment Acts. Applications shall state specific outcomes  
33 sought to be obtained under a program funded by a grant under  
34 this section.

35 3. Programs awarded moneys from the community grant fund

1 shall involve a collaborative effort by all children and  
2 family support service providers to provide services and shall  
3 reflect a community-wide consensus in how to remediate  
4 community problems. Services provided under the programs  
5 shall be comprehensive and utilize flexible delivery systems.  
6 The department of human services shall establish a point  
7 system for determining eligibility for grants from the fund  
8 based upon the nature and breadth of the community juvenile  
9 crime prevention programs and the extent to which a community  
10 has sought to obtain additional public and private funding  
11 sources for all or parts of the community's program.

12 4. This section is repealed effective June 30, 1998. The  
13 division of criminal and juvenile justice planning and the  
14 department of human services shall submit a report to the  
15 general assembly by January 15, 1998, regarding the  
16 effectiveness of the programs funded under this section in  
17 meeting the objectives contained in subsection 3.

18 Sec. 18. Section 280.19A, Code 1993, is amended by adding  
19 the following new unnumbered paragraph:

20 NEW UNNUMBERED PARAGRAPH. If a district has not adopted a  
21 plan as required in this section and implemented the plan by  
22 January 15, 1996, the district shall pay to the area education  
23 agency serving the district an amount equal to the cost per  
24 pupil plus weightings or special education costs for each  
25 pupil who drops out of school in the district for purposes of  
26 developing an alternative options education program for the  
27 pupil.

28 Sec. 19. Section 294A.14, unnumbered paragraphs 9 and 10,  
29 Code Supplement 1993, are amended to read as follows:

30 For school districts, additional instructional work  
31 assignments may include but are not limited to general  
32 curriculum planning and development, vertical articulation of  
33 curriculum, horizontal curriculum coordination, development of  
34 educational measurement practices for the school district,  
35 participation in assessment activities leading to

1 certification by the national board for professional teaching  
2 standards, attendance at workshops and other programs for  
3 service as cooperating teachers for student teachers,  
4 development of plans for assisting beginning teachers during  
5 their first year of teaching, attendance at summer staff  
6 development programs, development of staff development  
7 programs for other teachers to be presented during the school  
8 year, participation in family support programs, development of  
9 programs which provide instruction in conflict resolution and  
10 mediation techniques for staff and students, development of  
11 anger management instructional programs for students, and  
12 other plans locally determined in the manner specified in  
13 section 294A.15 and approved by the department of education  
14 under section 294A.16 that are of equal importance or more  
15 appropriately meet the educational needs of the school  
16 district.

17 For area education agencies, additional instructional work  
18 assignments may include but are not limited to providing  
19 assistance and support to school districts in general  
20 curriculum planning and development, providing assistance to  
21 school districts in vertical articulation of curriculum and  
22 horizontal curriculum coordination, development of educational  
23 measurement practices for school districts in the area  
24 education agency, development of plans for assisting beginning  
25 teachers during their first year of teaching, attendance or  
26 instruction at summer staff development programs, development  
27 of staff development programs for school district teachers to  
28 be presented during the school year, participation in family  
29 support programs, development of staff development programs  
30 which provide instruction in conflict resolution and mediation  
31 techniques, assisting school district teachers in the  
32 development of anger management instructional programs for  
33 students, and other plans determined in the manner specified  
34 in section 294A.15 and approved by the department of education  
35 under section 294A.16 that are of equal importance or more

1 appropriately meet the educational needs of the area education  
2 agency.

3 Sec. 20. NEW SECTION. 299.1B FAILURE TO ATTEND -- LOSS  
4 OF DRIVER'S LICENSE.

5 A person who does not attend a public school, an accredited  
6 nonpublic school, competent private instruction in accordance  
7 with the provisions of chapter 299A, an alternative school,  
8 adult education classes, or who is not employed at least  
9 twenty hours per week shall not receive a motor vehicle  
10 operator's license until age eighteen. A person who has been  
11 issued a motor vehicle operator's license who does not attend  
12 a public school, an accredited nonpublic school, competent  
13 private instruction in accordance with the provisions of  
14 chapter 299A, an alternative school, or adult education  
15 classes, shall surrender the license and be issued a temporary  
16 restricted license under section 321.215.

17 Sec. 21. Section 299.5A, Code 1993, is amended by adding  
18 the following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. The mediator may refer a truant  
20 to the juvenile court if mediation breaks down without an  
21 agreement being reached.

22 Sec. 22. NEW SECTION. 321.213A LICENSE SUSPENSION FOR  
23 JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL  
24 OFFENSES.

25 Upon the entering of an order at the conclusion of a  
26 dispositional hearing under section 232.50, where the child  
27 has been adjudicated to have committed a delinquent act, which  
28 would be a second or subsequent violation of section 123.46,  
29 section 123.47 involving the purchase of alcoholic beverages,  
30 or chapter 124 if committed by an adult, the clerk of the  
31 juvenile court in the dispositional hearing shall forward a  
32 copy of the adjudication and dispositional order to the  
33 department. The department shall suspend the license or  
34 operating privilege of the child for one year or until the  
35 child reaches the age of eighteen, whichever is longer. The



1 child may receive a temporary restricted license as provided  
2 in section 321.215.

3 Sec. 23. NEW SECTION. 321.213B REVOCATION FOR FAILURE TO  
4 ATTEND.

5 The department shall establish procedures by rule for  
6 revoking the license of a juvenile who is in violation of  
7 section 299.1B or issuing the juvenile a temporary restricted  
8 license under section 321.215 if the juvenile is employed at  
9 least twenty hours per week.

10 Sec. 24. Section 602.6405, subsection 1, Code 1993, is  
11 amended to read as follows:

12 1. Magistrates have jurisdiction of simple misdemeanors,  
13 including traffic and ordinance violations, and preliminary  
14 hearings, search warrant proceedings, county and municipal  
15 infractions, violations of section 123.47, and small claims.

16 A magistrate presiding over a case involving a violation of  
17 section 123.47 shall have the same jurisdiction as the  
18 juvenile court and shall use juvenile court procedure.

19 Magistrates have jurisdiction to exercise the powers specified  
20 in sections 644.2 and 644.12, and to hear complaints or  
21 preliminary informations, issue warrants, order arrests, make  
22 commitments, and take bail. Magistrates have jurisdiction  
23 over violations of section 123.49, subsection 2, paragraph  
24 "h". Magistrates who are admitted to the practice of law in  
25 this state have jurisdiction over all proceedings for the  
26 involuntary commitment, treatment, or hospitalization of  
27 individuals under chapters 125 and 229, except as otherwise  
28 provided under section 229.6A; nonlawyer magistrates have  
29 jurisdiction over emergency detention and hospitalization  
30 proceedings under sections 125.91 and 229.22. Magistrates  
31 have jurisdiction to conduct hearings authorized under section  
32 809.4 and section 809.10, subsection 2.

33 Sec. 25. Section 602.7103, subsection 3, Code 1993, is  
34 amended to read as follows:

35 3. The parties to a ~~termination-of-parental-rights~~

1 proceeding heard by an associate juvenile judge are entitled  
2 to appeal the order, finding, or decision of an associate  
3 juvenile judge, in the manner of an appeal from orders,  
4 findings, or decisions of district court judges. ~~The parties~~  
5 ~~to any other proceeding heard by an associate juvenile judge~~  
6 ~~are entitled to appeal the order, finding, or decision of an~~  
7 ~~associate juvenile judge to the district court.~~ An appeal  
8 does not automatically stay the order, finding, or decision of  
9 an associate juvenile judge.

10 Sec. 26. Section 613.16, subsection 2, Code 1993, is  
11 amended to read as follows:

12 2. The legal obligation of the parent or parents of an  
13 unemancipated minor child under the age of eighteen years to  
14 pay damages shall be limited ~~as follows:~~

15 a--Not to no more than one ten thousand dollars for any  
16 ~~one act.~~

17 b--Not all acts and no more than two three thousand  
18 dollars, payable to the same claimant, for two one or more  
19 acts.

20 Sec. 27. NEW SECTION. 724.4A WEAPONS FREE ZONES --  
21 ENHANCED PENALTIES.

22 1. As used in this section, "weapons free zone" means the  
23 area in or on, or within one thousand feet of, the real  
24 property comprising a public or private elementary or  
25 secondary school, or in or on the real property comprising a  
26 public park. A weapons free zone shall not include that  
27 portion of a public park designated as a hunting area under  
28 section 461A.42.

29 2. Notwithstanding sections 902.9 and 903.1, a person who  
30 commits a public offense involving a firearm or offensive  
31 weapon, within a weapons free zone, in violation of this or  
32 any other chapter shall be subject to a fine of twice the  
33 maximum amount which may otherwise be imposed for the public  
34 offense.

35 Sec. 28. Section 724.16, subsection 1, Code 1993, is

1 amended to read as follows:

2 1. Except as otherwise provided in section 724.15,  
3 subsection 2, a person who acquires ownership of a pistol or  
4 revolver without a valid annual permit to acquire pistols or  
5 revolvers or a person who transfers ownership of a pistol or  
6 revolver to a person who does not have in the person's  
7 possession a valid annual permit to acquire pistols or  
8 revolvers is guilty of ~~a-simple~~ an aggravated misdemeanor.

9 Sec. 29. NEW SECTION. 724.16A TRAFFICKING IN STOLEN  
10 WEAPONS.

11 A person who knowingly transfers or acquires possession, or  
12 who facilitates the transfer, of a stolen firearm commits a  
13 class "D" felony for a first offense and a class "C" felony  
14 for second and subsequent offenses or if the weapon is used in  
15 the commission of a public offense.

16 Sec. 30. Section 724.22, subsection 1, Code 1993, is  
17 amended to read as follows:

18 1. Except as provided in subsection 3, a person who sells,  
19 loans, gives, or makes available a rifle or shotgun or  
20 ammunition for a rifle or shotgun to a minor commits ~~a-simple~~  
21 an aggravated misdemeanor for a first offense and a class "D"  
22 felony for second and subsequent offenses or if the rifle or  
23 shotgun is subsequently used in the commission of a forcible  
24 felony.

25 Sec. 31. Section 724.22, subsection 2, Code 1993, is  
26 amended to read as follows:

27 2. Except as provided in subsections 4 and 5, a person who  
28 sells, loans, gives, or makes available a pistol or revolver  
29 or ammunition for a pistol or revolver to a person below the  
30 age of twenty-one commits ~~a-simple~~ an aggravated misdemeanor  
31 for a first offense and a class "D" felony for second and  
32 subsequent offenses or if the pistol or revolver is  
33 subsequently used in the commission of a forcible felony.

34 This section shall not apply to ammunition that is commonly  
35 used in a rifle or shotgun. In addition a person holding a

1 federal firearms license or who regularly buys and sells  
2 firearms is subject to having the person's firearms inventory  
3 forfeited pursuant to chapter 809.

4 Sec. 32. Section 724.27, Code 1993, is amended to read as  
5 follows:

6 724.27 ~~EXCEPTION-TO-SECTIONS-724.8,--SUBSECTION-2,--724.15,~~  
7 SUBSECTION-1,--AND-724.26 OFFENDERS' RIGHTS RESTORED.

8 The provisions of sections 724.8, subsection 2, 724.15,  
9 subsection 1, paragraphs "b" and "e", and 724.26 shall not  
10 apply to a person who is eligible to have the person's civil  
11 rights regarding firearms restored under section 914.7 and who  
12 is pardoned or has had the person's civil rights restored by  
13 the President of the United States or the chief executive of a  
14 state and who is expressly authorized by the President of the  
15 United States or such chief executive to receive, transport,  
16 or possess firearms or destructive devices.

17 Sec. 33. Section 726.6, subsections 2 and 3, Code 1993,  
18 are amended to read as follows:

19 2. a. A person who commits three or more acts of child  
20 endangerment resulting in serious injury to a child or minor  
21 is guilty of a class "B" felony.

22 b. A Except as otherwise provided in paragraph "a", a  
23 person who commits child endangerment resulting in serious  
24 injury to a child or minor is guilty of a class "C" felony.

25 c. A person who commits three or more acts of child  
26 endangerment not resulting in serious injury to a child or  
27 minor is guilty of a class "C" felony.

28 3 d. A Except as otherwise provided in paragraph "c", a  
29 person who commits child endangerment not resulting in serious  
30 injury to a child or minor is guilty of an aggravated  
31 misdemeanor.

32 Sec. 34. Section 805.8, subsection 10, Code Supplement  
33 1993, is amended to read as follows:

34 10. ALCOHOLIC BEVERAGE VIOLATIONS.

35 a. For violations of section 123.47A, which constitute

1 first offenses as provided in that section, the scheduled fine  
2 is fifteen dollars.

3 b. For violations of section 123.49, subsection 2,  
4 paragraph "h", the scheduled fine is one hundred dollars.

5 Sec. 35. Section 808A.2, Code 1993, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 4. If a search pursuant to subsection 1  
8 of a school locker, desk, or other facility or space issued or  
9 assigned to, or chosen by a student, reveals a violation of  
10 the law or the rules of the school regarding a dangerous  
11 weapon or controlled substance, the violation shall constitute  
12 reasonable grounds for future searches without advance notice  
13 to the student of the student's school locker, desk, or other  
14 facility or space issued or assigned to, or chosen by the  
15 student.

16 Sec. 36. Section 809.1, subsection 2, Code 1993, is  
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. e. The firearms inventory of a person  
19 holding a federal firearms license or a person who regularly  
20 buys and sells firearms who is convicted of a violation of  
21 section 724.22, subsection 2.

22 Sec. 37. Section 914.7, Code 1993, is amended by adding  
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of  
25 this chapter, a person seventeen years of age or younger who  
26 commits a public offense involving a firearm which is an  
27 aggravated misdemeanor against a person or a felony shall not  
28 have the person's rights of citizenship restored to the extent  
29 of allowing the person to receive, transport, or possess  
30 firearms.

31 Sec. 38. APPROPRIATION -- CHILD ABUSE WORKERS. There is  
32 appropriated from the general fund of the state to the  
33 department of human services for the fiscal year beginning  
34 July 1, 1994, and ending June 30, 1995, the following amount,  
35 or so much thereof as is necessary, to be used for the purpose

1 designated:

2 For child abuse treatment workers in addition to child  
3 abuse treatment positions authorized for field staff positions  
4 in the department of human services and funding otherwise  
5 appropriated for this purpose by the Seventy-fifth General  
6 Assembly, 1994 Session, including salaries, support,  
7 maintenance, miscellaneous purposes, and for not more than the  
8 following full-time equivalent positions:

9 .....	\$	290,000
10 .....	FTEs	5.00

11 Sec. 39. APPROPRIATION -- CHILDREN OF PARENTS IN PRISON.

12 There is appropriated from the general fund of the state to  
13 the department of human services for the fiscal year beginning  
14 July 1, 1994, and ending June 30, 1995, the following amount,  
15 or so much thereof as is necessary, to be used for the purpose  
16 designated:

17 For purchase of counseling and other support services for  
18 children whose parents are in prison:

19 .....	\$	120,000
----------	----	---------

20 Sec. 40. APPROPRIATION -- HEALTHY FAMILY PROGRAM. There  
21 is appropriated from the general fund of the state to the Iowa  
22 department of public health for the fiscal year beginning July  
23 1, 1994, and ending June 30, 1995, the following amount, or so  
24 much thereof as is necessary, to be used for the purpose  
25 designated:

26 For the healthy family program established pursuant to  
27 section 135.106 in addition to other funds otherwise  
28 appropriated for this purpose by the Seventy-fifth General  
29 Assembly, 1994 Session:

30 .....	\$	175,000
----------	----	---------

31 Sec. 41. APPROPRIATION -- HIGHLY STRUCTURED JUVENILE  
32 PROGRAMS. The department of human services and the division  
33 of criminal and juvenile justice planning of the department of  
34 human rights shall, contingent upon receipt of medical  
35 assistance funding for program participants, develop two 25-

1 bed highly structured treatment-oriented facilities for youth  
2 who are adjudicated delinquents. The program shall include  
3 goals for the functioning of youth following completion of the  
4 treatment program provided by the facilities, after care  
5 tracking, and evaluation activities during treatment and after  
6 care. Funding for the facilities shall be provided from the  
7 appropriation to the department of human services for child  
8 and family services by the Seventy-fifth General Assembly,  
9 1994 Session.

10 Sec. 42. PARENTING PILOT PROJECT. The department of  
11 education shall establish a four-year pilot project in a  
12 county with a population of less than thirty-five thousand  
13 inhabitants which provides outreach and incentives for the  
14 voluntary participation of expectant parents and parents of  
15 children in the period of life from birth through age three,  
16 in educational experiences designed to assist parents in  
17 learning about the physical, mental, and emotional development  
18 of their children and to enhance the skills of the parents in  
19 assisting their children's learning and development. The  
20 department shall establish criteria for programs offered  
21 through the project, which may include, but are not limited  
22 to, the criteria established for family support programs under  
23 section 256A.4. The department shall report to the general  
24 assembly by January 15, 1998, regarding the success of the  
25 pilot project in meeting the goals established in this  
26 section.

27 Sec. 43. APPROPRIATION. There is appropriated from the  
28 general fund of the state in the community grant fund for the  
29 fiscal year beginning July 1, 1994, and ending June 30, 1995,  
30 the following amount or so much thereof as is necessary, to be  
31 used for the purposes of the community grant fund established  
32 in this Act, including allocating \$100,000 to the Iowa law  
33 enforcement academy for the purpose of training officers on  
34 dealing with gang-affected youth and allocating up to \$250,000  
35 to the division of criminal and juvenile justice planning of

1 the department of human rights for youthful offender programs  
2 in two or more cities:

3 ..... \$ 2,000,000

4 Sec. 44. APPROPRIATION. There is appropriated from the  
5 general fund of the state to the judicial department for the  
6 fiscal year beginning July 1, 1994, and ending June 30, 1995,  
7 the following amount, or so much thereof as is necessary, to  
8 be used for the purpose designated:

9 For salaries, support, and maintenance, for the following  
10 additional juvenile court officers, and for not more than the  
11 following full-time equivalent positions:

12 ..... \$ 315,000

13 ..... FTEs 9.00

14 The judicial department shall determine the location at  
15 which the additional juvenile court officers are to be placed.

16 Sec. 45. APPROPRIATION. There is appropriated from the  
17 general fund of the state to the department of education for  
18 the fiscal year beginning July 1, 1994, and ending June 30,  
19 1995, the following amount, or so much thereof as is  
20 necessary, to be used for the purpose designated:

21 For establishing a parent education pilot project in a  
22 county with fewer than thirty-five thousand inhabitants:

23 ..... \$ 100,000

24 Sec. 46. TRUANCY JUVENILE COURT OFFICERS. Contingent on a  
25 specific appropriation being made for this purpose, the  
26 judicial department shall add one additional juvenile court  
27 officer per judicial district for the purpose of handling  
28 truancy cases referred to the juvenile court under section  
29 299.5A, as amended in this Act.

30 Sec. 47. STUDY. The division of criminal and juvenile  
31 justice planning of the department of human rights shall study  
32 and compare rates of recidivism and rehabilitation for similar  
33 offenses in juveniles adjudicated delinquent versus juveniles  
34 waived to and convicted of an offense in the district court  
35 and the frequency and severity of sanctions imposed upon



1 juveniles by the juvenile court versus those imposed by the  
2 district court for juveniles waived to the district court for  
3 similar offenses. The division shall report the results of  
4 its study to the general assembly by January 15, 1995.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

HOUSE AMENDMENT TO  
SENATE FILE 2319

S-5609

1 Amend Senate File 2319, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. JUVENILE DETENTION HOMES -- ADDITIONAL  
6 APPROPRIATION. There is appropriated from the general  
7 fund of the state to the department of human services  
8 for the fiscal year beginning July 1, 1994, and ending  
9 June 30, 1995, in addition to other appropriations  
10 made to the department for that fiscal year, the  
11 following amount, or so much thereof as is necessary,  
12 to be used for the purpose designated:

13 For additional reimbursement of counties for  
14 juvenile detention homes in accordance with the  
15 provisions of this section, and in order to effectuate  
16 the purposes of this Act pertaining to the detention  
17 of children who habitually and substantially violate  
18 the conditions of probation:

19 ..... \$ 362,500

20 If the funds designated in this section, in  
21 addition to any other appropriation to the department  
22 of human services for reimbursement of counties for  
23 juvenile detention homes in the fiscal year beginning  
24 July 1, 1994, are insufficient to pay ten percent of  
25 the total cost of the homes, notwithstanding section  
26 232.142, subsection 3, the state payment shall be less  
27 than ten percent and the department shall prorate the  
28 state payment as necessary to keep expenditures within  
29 the funds designated in this section and in any other  
30 provision appropriating moneys to the department for  
31 reimbursement of counties for juvenile detention homes  
32 in the same fiscal year.

33 Sec. 2. Section 123.3, subsection 19, Code  
34 Supplement 1993, is amended to read as follows:

35 19. "Legal age" means nineteen twenty-one years of  
36 age or more.

37 Sec. 3. Section 123.47, Code 1993, is amended to  
38 read as follows:

39 123.47 PERSONS UNDER THE AGE OF EIGHTEEN TWENTY-  
40 ONE.

41 A person shall not sell, give, or otherwise supply  
42 alcoholic liquor, wine, or beer to any person knowing  
43 or having reasonable cause to believe that person to  
44 be under the age of eighteen twenty-one, and a person  
45 or persons under the age of eighteen twenty-one shall  
46 not individually or jointly have alcoholic liquor,  
47 wine, or beer in their possession or control; except  
48 in the case of liquor, wine, or beer given or  
49 dispensed to a person under the age of eighteen  
50 twenty-one within a private home and with the

S-5609

S-5609

Page 2

1 knowledge, presence, and consent of the parent or  
2 guardian for beverage or medicinal purposes or as  
3 administered to the person by either a physician or  
4 dentist for medicinal purposes and except to the  
5 extent that a person under the age of eighteen twenty-  
6 one may handle alcoholic beverages, wine, and beer  
7 during the regular course of the person's employment  
8 by a liquor control licensee, or wine or beer  
9 permittee under this chapter.

10 A person, age eighteen, nineteen, or twenty, other  
11 than a licensee or permittee, who commits a first  
12 offense under this section commits a scheduled  
13 violation of section 805.8, subsection 10. A person,  
14 age eighteen, nineteen, or twenty, other than a  
15 licensee or permittee, who commits a second or  
16 subsequent violation of this section, commits a simple  
17 misdemeanor. A licensee or permittee who violates  
18 this section with respect to a person who is age  
19 nineteen or twenty is guilty of a simple misdemeanor  
20 punishable by a fine of not more than fifty dollars.  
21 The penalty provided under this section against a  
22 licensee or permittee who violates this section with  
23 respect to a person who is age nineteen or twenty is  
24 the only penalty which shall be imposed against a  
25 licensee or permittee who violates this section. A  
26 licensee or permittee who violates this section with  
27 respect to a person who is age eighteen commits a  
28 simple misdemeanor, and is subject to the criminal and  
29 civil penalties provided pursuant to sections 123.49  
30 and 123.50 with respect to selling, giving, or  
31 otherwise supplying alcoholic beverages, liquor, wine,  
32 or beer to persons under legal age.

33 Sec. 4. Section 123.47B, Code 1993, is amended to  
34 read as follows:

35 123.47B PARENTAL AND SCHOOL NOTIFICATION --PERSONS  
36 UNDER EIGHTEEN YEARS OF AGE.

37 A peace officer shall make a reasonable effort to  
38 identify a person under the age of eighteen discovered  
39 to be in possession of alcoholic liquor, wine, or beer  
40 in violation of section 123.47 and if the person is  
41 not referred to juvenile court, the law enforcement  
42 agency of which the peace officer is an employee shall  
43 make a reasonable attempt to notify the person's  
44 custodial parent or legal guardian of such possession,  
45 whether or not the person is arrested or a citation is  
46 issued pursuant to section 805.16, unless the officer  
47 has reasonable grounds to believe that such  
48 notification is not in the best interests of the  
49 person or will endanger that person. If the person is  
50 taken into custody, the peace officer may make a

S-5609

-2-

S-5609

Page 3

1 reasonable effort to identify the elementary or  
2 secondary school the person attends, if any, and to  
3 notify the superintendent of the school district, the  
4 superintendent's designee, or the authorities in  
5 charge of the nonpublic school of the taking into  
6 custody. A juvenile court officer may also notify the  
7 superintendent of the school district, the  
8 superintendent's designee, or the authorities in  
9 charge of the nonpublic school which the child attends  
10 of the taking into custody. A reasonable attempt to  
11 notify the person includes but is not limited to a  
12 telephone call or notice by first class mail.

13 Sec. 5. Section 123.90, Code 1993, is amended by  
14 adding the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. In addition to any other  
16 penalties provided in this chapter, a person under the  
17 age of eighteen who is adjudicated delinquent for  
18 violating section 123.47 shall surrender all motor  
19 vehicle licenses or permits, which the court shall  
20 forward to the state department of transportation.  
21 The license shall be suspended by the department for  
22 ninety days for the first violation, one hundred  
23 eighty days for the second violation, and one year for  
24 third and subsequent violations, and the person shall  
25 not be eligible for a special minor's license under  
26 section 321.194.

27 Sec. 6. Section 124.401, subsection 1, Code 1993,  
28 is amended by adding the following new paragraph:

29 NEW PARAGRAPH. g. A person who violates this  
30 subsection by bringing, or causing to be brought, into  
31 this state a controlled substance, counterfeit  
32 substance, or a simulated controlled substance shall  
33 be sentenced to two times the term otherwise imposed  
34 by law, and no such judgment, sentence, or part  
35 thereof shall be deferred or suspended.

36 Sec. 7. Section 124.401, subsection 3, Code 1993,  
37 is amended to read as follows:

38 3. a. It is unlawful for any person knowingly or  
39 intentionally to possess a controlled substance, a  
40 counterfeit substance, or a simulated controlled  
41 substance, unless such substance was obtained directly  
42 from, or pursuant to, a valid prescription or order of  
43 a practitioner while acting in the course of the  
44 practitioner's professional practice, or except as  
45 otherwise authorized by this chapter. Any Except as  
46 otherwise provided in paragraph "b", any person who  
47 violates this subsection is guilty of a serious  
48 misdemeanor. If the controlled substance, counterfeit  
49 substance, or simulated controlled substance is  
50 marijuana, the punishment shall be by imprisonment in

S-5609

-3-

S-5609

Page 4

1 the county jail for not more than six months or by a  
2 fine of not more than one thousand dollars, or by both  
3 such fine and imprisonment.

4 b. Violation of this subsection with respect to  
5 the following controlled substances, counterfeit  
6 substances, or simulated controlled substances is a  
7 class "D" felony:

8 (1) A mixture or substance containing heroin.

9 (2) Coca leaves, except coca leaves and extracts  
10 of coca leaves from which cocaine, ecgonine, and  
11 derivatives of ecgonine or their salts have been  
12 removed.

13 (3) Cocaine, cocaine base, cocaine salts, optical  
14 and geometric isomers, and salts of isomers.

15 (4) Ecgonine, its derivatives, their salts,  
16 isomers, and salts of isomers.

17 (5) A mixture or substance containing a detectable  
18 amount of phencyclidine (PCP).

19 (6) A mixture or substance containing a detectable  
20 amount of lysergic acid diethylamide (LSD).

21 (7) A mixture or substance containing a detectable  
22 amount of methamphetamine.

23 (8) Any other controlled substance, counterfeit  
24 substance, or simulated controlled substance  
25 classified in schedule I or II, except marijuana.

26 4. All or any part of a sentence imposed pursuant  
27 to this section may be suspended and the person placed  
28 upon probation upon such terms and conditions as the  
29 court may impose including the active participation by  
30 such person in a drug treatment, rehabilitation or  
31 education program approved by the court.

32 Sec. 8. Section 124.401A, Code 1993, is amended to  
33 read as follows:

34 124.401A ENHANCED PENALTY FOR DISTRIBUTION TO  
35 PERSONS ON CERTAIN REAL PROPERTY.

36 In addition to any other penalties provided in this  
37 chapter, a person who is eighteen years of age or  
38 older who unlawfully distributes or possesses with  
39 intent to distribute a substance or counterfeit  
40 substance listed in schedule I, or II which is a  
41 narcotic or cocaine, or III, or a simulated controlled  
42 substance represented to be a narcotic or cocaine  
43 controlled substance classified in schedule I, or II,  
44 or III, to another person who is eighteen years of age  
45 or older in or on, or within one thousand feet of the  
46 real property comprising a public or private  
47 elementary or secondary school, vocational school,  
48 public or private community college, college, or  
49 university, or in or on the real property comprising a  
50 public park, public swimming pool, public or private

S-5609

-4-

S-5609

Page 5

1 youth center, or on a marked school bus, may, at the  
2 judge's discretion, be sentenced up to an additional  
3 term of confinement of five years.

4 Sec. 9. NEW SECTION. 124.401B POSSESSION OF  
5 CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY --  
6 ADDITIONAL PENALTY.

7 In addition to any other penalties provided in this  
8 chapter or another chapter, a person who unlawfully  
9 possesses a substance listed in schedule I, II, or  
10 III, or a simulated controlled substance represented  
11 to be a controlled substance classified in schedule I,  
12 II, or III, in or on, or within one thousand feet of  
13 the real property comprising a public or private  
14 elementary, secondary or vocational school, public or  
15 private community college, college, or university,  
16 public park, public swimming pool, public or private  
17 youth center, or on a marked school bus, may be  
18 sentenced to one hundred hours of community service  
19 work for a public agency or a nonprofit charitable  
20 organization. The court shall provide the offender  
21 with a written statement of the terms and monitoring  
22 provisions of the community service.

23 Sec. 10. Section 124.406, subsection 1, paragraphs  
24 a and b, Code 1993, are amended to read as follows:

25 a. Unlawfully distributes or possesses with intent  
26 to distribute a substance listed in schedule I or II,  
27 which-is-a-narcotic-or-cocaine, to a person under  
28 eighteen years of age commits a class "B" felony and  
29 shall serve a minimum term of confinement of five  
30 years. However, if the substance was distributed in  
31 or on, or within one thousand feet of, the real  
32 property comprising a public or private elementary or  
33 secondary school, vocational school, public or private  
34 community college, college, or university, or in or on  
35 the real property comprising a public park, public  
36 swimming pool, public or private youth center, or on a  
37 marked school bus, the person shall serve a minimum  
38 term of confinement of ten years.

39 b. Unlawfully distributes or possesses with the  
40 intent to distribute a controlled substance other-than  
41 a-narcotic-or-cocaine listed in schedule I, ~~II~~, or III  
42 to a person under eighteen years of age who is at  
43 least three years younger than the violator commits a  
44 class "C" felony.

45 Sec. 11. Section 124.406, subsection 2, paragraphs  
46 a and b, Code 1993, are amended to read as follows:

47 a. Unlawfully distributes or possesses with the  
48 intent to distribute a counterfeit substance listed in  
49 schedule I or II which-is-a-narcotic-or-cocaine, or a  
50 simulated controlled substance represented to be a

S-5609

-5-

S-5609

Page 6

1 ~~narcotic-or-cocaine~~ substance classified in schedule I  
2 or II, to a person under eighteen years of age commits  
3 a class "B" felony. However, if the substance was  
4 distributed in or on, or within one thousand feet of,  
5 the real property comprising a public or private  
6 elementary or secondary school, vocational school,  
7 public or private community college, college, or  
8 university, or in or on the real property comprising a  
9 public park, public swimming pool, public or private  
10 youth center, or on a marked school bus, the person  
11 shall serve a minimum term of confinement of ten  
12 years.

13 b. Unlawfully distributes or possesses with intent  
14 to distribute a counterfeit substance other-than-a  
15 ~~narcotic-or-cocaine~~ listed in schedule ~~I, II, or III,~~  
16 or a simulated controlled substance represented to be  
17 any substance listed in schedule ~~I, II, or III,~~ to a  
18 person under eighteen years of age who is at least  
19 three years younger than the violator commits a class  
20 "C" felony.

21 Sec. 12. Section 124.406, Code 1993, is amended by  
22 adding the following new subsection:

23 NEW SUBSECTION. 4. It is unlawful for a person  
24 who is eighteen years of age or older to act with,  
25 enter into a common scheme or design with, conspire  
26 with, recruit or use a person under the age of  
27 eighteen for the purpose of delivering or  
28 manufacturing a controlled substance. A person who  
29 violates this subsection with respect to a controlled  
30 substance classified in schedule I, II, III, IV, or V  
31 is guilty of a class "B" felony, and shall and must  
32 serve a minimum term of confinement of five years.  
33 The court shall not defer or suspend any portion of  
34 the mandatory minimum term of confinement, and shall  
35 not impose a fine in lieu of the mandatory minimum  
36 term of confinement, although a fine may be imposed in  
37 addition to a term of confinement.

38 Sec. 13. Section 124.415, Code 1993, is amended to  
39 read as follows:

40 124.415 PARENTAL AND SCHOOL NOTIFICATION --PERSONS  
41 UNDER EIGHTEEN YEARS OF AGE.

42 A peace officer shall make a reasonable effort to  
43 identify a person under the age of eighteen discovered  
44 to be in possession of a controlled substance,  
45 counterfeit substance, or simulated controlled  
46 substance in violation of this chapter, and if the  
47 person is not referred to juvenile court the law  
48 enforcement agency of which the peace officer is an  
49 employee shall make a reasonable attempt to notify the  
50 person's custodial parent or legal guardian of such

S-5609

-6-

S-5609

Page 7

1 possession, whether or not the person is arrested,  
2 unless the officer has reasonable grounds to believe  
3 that such notification is not in the best interests of  
4 the person or will endanger that person. If the  
5 person is taken into custody, the peace officer may  
6 make a reasonable effort to identify the elementary or  
7 secondary school the person attends, if any, and to  
8 notify the superintendent of the school district, the  
9 superintendent's designee, or the authorities in  
10 charge of the nonpublic school of the taking into  
11 custody. A juvenile court officer may also notify the  
12 superintendent of the school district, the  
13 superintendent's designee, or the authorities in  
14 charge of the nonpublic school of the taking into  
15 custody. A reasonable attempt to notify the person  
16 includes but is not limited to a telephone call or  
17 notice by first class mail.

18 Sec. 14. Section 232.2, subsection 6, Code  
19 Supplement 1993, is amended by adding the following  
20 new paragraph:

21 NEW PARAGRAPH. p. Who is a truant as defined in  
22 section 299.8. However, this provision shall not  
23 apply to a child attending a nonaccredited nonpublic  
24 school or receiving competent private instruction.

25 Sec. 15. Section 232.2, subsection 12, Code  
26 Supplement 1993, is amended by adding the following  
27 new paragraph:

28 NEW PARAGRAPH. c. The violation of the statutory  
29 compulsory attendance age requirement or the  
30 attendance policy of a public or an accredited  
31 nonpublic school with at least six unexcused absences  
32 during a semester which results in the child being  
33 deemed a truant pursuant to section 299.8. However,  
34 this provision shall not apply to a child attending a  
35 nonaccredited nonpublic school or receiving competent  
36 private instruction.

37 Sec. 16. Section 232.2, subsection 22, Code 1993,  
38 is amended by adding the following new unnumbered  
39 paragraph:

40 NEW UNNUMBERED PARAGRAPH. Unless otherwise  
41 enlarged or circumscribed by a court or juvenile court  
42 having jurisdiction over the child or by operation of  
43 law, the duties of a guardian ad litem with respect to  
44 a child shall include the following:

45 a. Conducting in-person interviews with the child  
46 and each parent, guardian, or other person having  
47 custody of the child.

48 b. Visiting the home, residence, or both home and  
49 residence of the child and any prospective home or  
50 residence of the child.

S-5609

-7-



S-5609

Page 8

1 c. Interviewing any person providing medical,  
2 social, educational, or other services to the child.

3 d. Obtaining first-hand knowledge, if possible, of  
4 the facts, circumstances, and parties involved in the  
5 matter in which the person is appointed guardian ad  
6 litem.

7 e. Attending any hearings in the matter in which  
8 the person is appointed as the guardian ad litem.

9 Sec. 17. Section 232.19, subsection 2, Code 1993,  
10 is amended to read as follows:

11 2. When a child is taken into custody as provided  
12 in subsection 1 the person taking the child into  
13 custody shall notify the child's parent, guardian or  
14 custodian as soon as possible and shall not place  
15 bodily restraints, such as handcuffs, on the child  
16 unless the child physically resists or threatens  
17 physical violence when being taken into custody.  
18 However, if the child is thirteen years of age or  
19 older, the person taking the child into custody may  
20 place bodily restraints, such as handcuffs, on the  
21 child, regardless of whether the child physically  
22 resists or threatens physical violence. Unless the  
23 child is placed in shelter care or detention in  
24 accordance with the provisions of section 232.21 or  
25 232.22, the child shall be released to the child's  
26 parent, guardian, custodian, responsible adult  
27 relative, or other adult approved by the court upon  
28 the promise of such person to produce the child in  
29 court at such time as the court may direct.

30 Sec. 18. Section 232.19, Code 1993, is amended by  
31 adding the following new subsection:

32 NEW SUBSECTION. 4. Notwithstanding any other  
33 provision of this chapter, a child shall not be placed  
34 in detention, or in a secure facility as part of a  
35 dispositional order under section 232.52 for a  
36 violation by that child of section 299.8.

37 Sec. 19. Section 232.28, subsection 3, Code 1993,  
38 is amended by adding the following new paragraph:

39 NEW PARAGRAPH. f. Notify the superintendent of  
40 the school district or the superintendent's designee,  
41 or the authorities in charge of the nonpublic school  
42 which the child attends of the child being taken into  
43 custody or receiving a citation involving alcohol or  
44 controlled substance possession, as provided in  
45 sections 123.47B and 124.415.

46 Sec. 20. Section 232.29, subsection 2, Code 1993,  
47 is amended to read as follows:

48 2. An informal adjustment agreement may prohibit a  
49 child from driving a motor vehicle for a specified  
50 period of time or under specific circumstances,

S-5609

-8-

S-5609

Page 9

1 require the child to perform a work assignment of  
2 value to the state or to the public, or require the  
3 child to make restitution consisting of a monetary  
4 payment to the victim or a work assignment directly of  
5 value to the victim.

6 Sec. 21. Section 232.42, Code 1993, is amended by  
7 adding the following new subsection:

8 NEW SUBSECTION. 3. Proceedings may be continued  
9 for up to one year upon the request of the county  
10 attorney and the child to permit the making of  
11 probation arrangements prior to the adjudicatory  
12 hearing. If either the child or the county attorney  
13 requests that the adjudicatory hearing be held at any  
14 time during the period of the continuance, the court  
15 shall set the matter for hearing.

16 Sec. 22. Section 232.44, subsection 1, Code 1993,  
17 is amended by adding the following new unnumbered  
18 paragraph:

19 NEW UNNUMBERED PARAGRAPH. If the child is placed  
20 in a detention facility in a county other than the  
21 county in which the child resides or in which the  
22 delinquent act allegedly occurred but which is within  
23 the same judicial district, the hearing may take place  
24 in the county in which the detention facility is  
25 located and may take place by telephone conference  
26 call.

27 Sec. 23. Section 232.45A, subsections 2 and 3,  
28 Code 1993, are amended to read as follows:

29 2. Once a child sixteen years of age or older has  
30 been waived to and convicted of a ~~forcible felony or a~~  
31 ~~felony-violation-of-section-124.401-or-chapter-707~~ by  
32 the district court, all criminal proceedings against  
33 the child for any ~~forcible felony or a felony~~  
34 ~~violation-of-section-124.401-or-chapter-707~~ occurring  
35 subsequent to the date of the conviction of the child  
36 shall begin in district court, notwithstanding  
37 sections 232.8 and 232.45. A copy of the findings  
38 required by section 232.45, subsection 8, shall be  
39 made a part of the record in the district court  
40 proceedings.

41 3. If proceedings against a child for a ~~forcible~~  
42 ~~felony or a felony-violation-of-section-124.401-or~~  
43 ~~chapter-707~~ who has previously been waived to and  
44 convicted of such an offense by the district court are  
45 mistakenly begun in the juvenile court, the matter  
46 shall be transferred to district court upon the  
47 discovery of the prior waiver and conviction,  
48 notwithstanding sections 232.8 and 232.45.

49 Sec. 24. Section 232.46, subsection 1, Code 1993,  
50 is amended to read as follows:

S-5609

-9-

S-5609

Page 10

1 1. At any time after the filing of a petition and  
2 prior to entry of an order of adjudication pursuant to  
3 section 232.47, the court may suspend the proceedings  
4 on motion of the county attorney or the child's  
5 counsel, enter a consent decree, and continue the case  
6 under terms and conditions established by the court.  
7 These terms and conditions may include prohibiting a  
8 child from driving a motor vehicle for a specified  
9 period of time or under specific circumstances, or the  
10 supervision of the child by a juvenile court officer  
11 or other agency or person designated by the court, and  
12 may include the requirement that the child perform a  
13 work assignment of value to the state or to the public  
14 or make restitution consisting of a monetary payment  
15 to the victim or a work assignment directly of value  
16 to the victim.

17 Sec. 25. Section 232.52, subsection 2, paragraph  
18 a, Code 1993, is amended by adding the following new  
19 subparagraph:

20 NEW SUBPARAGRAPH. (4) That the child shall not  
21 operate a motor vehicle for a specified period of time  
22 or under specified condition.

23 Sec. 26. Section 232.52, subsection 2, paragraph  
24 e, Code 1993, is amended by adding the following new  
25 subparagraph:

26 NEW SUBPARAGRAPH. (5) The child has not  
27 successfully completed the alternative short-term  
28 placement program under section 232.191.

29 Sec. 27. Section 232.78, subsection 1, unnumbered  
30 paragraph 1, Code 1993, is amended to read as follows:

31 The juvenile court may enter an ex parte order  
32 directing a peace officer or a juvenile court officer  
33 to take custody of a child before or after the filing  
34 of a petition under this chapter provided all of the  
35 following apply:

36 Sec. 28. Section 232.79, subsection 1, unnumbered  
37 paragraph 1, Code 1993, is amended to read as follows:

38 A peace officer or juvenile court officer may take  
39 a child into custody or a physician treating a child  
40 may keep the child in custody, or a juvenile court  
41 officer may authorize a peace officer, physician, or  
42 medical security personnel to take a child into  
43 custody, without a court order as required under  
44 section 232.78 and without the consent of a parent,  
45 guardian, or custodian provided that both of the  
46 following apply:

47 Sec. 29. Section 232.147, Code Supplement 1993, is  
48 amended by adding the following new subsections:

49 NEW SUBSECTION. 9. A juvenile court officer or  
50 law enforcement agency may disclose the name of the

S-5609

-10-

S-5609

Page 11

1 child and an adjudication of delinquency or citation  
2 involving alcohol or controlled substance possession  
3 to the superintendent of the school district, the  
4 superintendent's designee, or the authorities in  
5 charge of the nonpublic school which the child  
6 attends, as provided in sections 123.47B and 124.415  
7 or past adjudications of delinquency or citations  
8 involving alcohol or controlled substance possession  
9 or indictable offenses committed by the child.

10 NEW SUBSECTION. 10. Notwithstanding any provision  
11 to the contrary, the county attorney may disclose  
12 information which would otherwise be confidential  
13 pursuant to this section to the extent necessary to  
14 initiate or conduct proceedings pertaining to seized  
15 or forfeited property in accordance with chapter 809.

16 Sec. 30. Section 232.148, Code 1993, is amended to  
17 read as follows:

18 232.148 FINGERPRINTS -- PHOTOGRAPHS.

19 1. Except as provided in this section, a child  
20 shall not be fingerprinted or photographed by a  
21 criminal justice agency after the child is taken into  
22 custody.

23 2. Fingerprints and photographs of a child who has  
24 been taken into custody and who is fourteen years of  
25 age or older may be taken and filed by a criminal  
26 justice agency investigating the commission of a  
27 public offense ~~constituting a felony other than a~~  
28 ~~simple misdemeanor.~~ However, ~~7-fingerprint-and~~  
29 ~~photograph-files-of-a-child-who-enters-into-an~~  
30 ~~informal-adjustment-or-consent-decree-shall-be~~  
31 ~~retained-only-if-the-child-is-notified-at-the-time-of~~  
32 ~~entering-into-the-informal-adjustment-or-consent~~  
33 ~~decree-that-the-files-will-be-permanently-retained-by~~  
34 ~~the-criminal-justice-agency.~~ The criminal justice  
35 agency shall forward the fingerprints to the  
36 department of public safety for inclusion in the  
37 automated fingerprint identification system. However,  
38 unless otherwise authorized pursuant to section  
39 232.45A or 690.4, or as otherwise authorized by law, a  
40 criminal history record shall not be created for  
41 inclusion in an automated system due to the retention  
42 of fingerprints pursuant to this section.

43 3. If a peace officer has reasonable grounds to  
44 believe that latent fingerprints found during the  
45 investigation of the commission of a public offense  
46 are those of a particular child, fingerprints of the  
47 child may be taken for immediate comparison with the  
48 latent fingerprints regardless of the nature of the  
49 offense. If the comparison is negative the  
50 fingerprint card and other copies of the fingerprints

S-5609

-11-

S-5609

Page 12

1 taken shall be immediately destroyed. If the  
2 comparison is positive ~~and the child is referred to~~  
3 ~~the court~~, the fingerprint card and other copies of  
4 the fingerprints taken shall be delivered to the court  
5 ~~for disposition~~ division of criminal investigation of  
6 the department of public safety in the manner and on  
7 the forms prescribed by the commissioner of public  
8 safety within two working days after the fingerprints  
9 are taken. If the child is not referred to the court  
10 After notification by the child or the child's  
11 representative that the child has not had a  
12 delinquency petition filed against the child or has  
13 not entered into an informal adjustment agreement, the  
14 fingerprint card and copies of the fingerprints shall  
15 be immediately destroyed.

16 ~~4.--Fingerprint and photograph files of children~~  
17 ~~shall be kept separate from those of adults.--Copies~~  
18 ~~of fingerprints and photographs of a child shall not~~  
19 ~~be placed in any data storage system established and~~  
20 ~~maintained by the department of public safety pursuant~~  
21 ~~to chapter 6927 or in any federal depository for~~  
22 ~~fingerprints.~~

23 ---5 4. Fingerprint and photograph files of children  
24 may be inspected by peace officers when necessary for  
25 the discharge of their official duties. The juvenile  
26 court may authorize other inspections of such files in  
27 individual cases upon a showing that inspection is  
28 necessary in the public interest.

29 6 5. Fingerprints and photographs of a child shall  
30 be removed from the file and destroyed ~~if~~ upon  
31 notification by the child's guardian ad litem or legal  
32 counsel to the department of public safety that any of  
33 the following situations apply:

34 a. A petition alleging the child to be delinquent  
35 is not filed and the child has not entered into an  
36 informal adjustment, admitting involvement in a  
37 delinquent act alleged in the complaint.

38 b. After a petition is filed, the petition is  
39 dismissed or the proceedings are suspended and the  
40 child has not entered into a consent decree and has  
41 not been adjudicated delinquent on the basis of a  
42 delinquent act other than one alleged in the petition  
43 in question.

44 c. Upon petition by the child when the child  
45 reaches twenty-one years of age and the child has not  
46 been adjudicated a delinquent nor convicted of  
47 committing an aggravated misdemeanor or a felony after  
48 reaching sixteen years of age.

49 Sec. 31. Section 232.150, Code 1993, is amended by  
50 adding the following new subsection:

S-5609

-12-

S-5609

Page 13

1 NEW SUBSECTION. 1A. Upon an application pursuant  
2 to this section by a person whose activities resulted  
3 in the seizure or forfeiture of property pursuant to  
4 chapter 809, the court shall consider whether records  
5 pertaining to the seizure and forfeiture should be  
6 sealed also. The court shall take into account the  
7 interests of the person seeking to have the records  
8 sealed as well as any person claiming an interest in  
9 the property.

10 Sec. 32. NEW SECTION. 232.191 ALTERNATIVE SHORT-  
11 TERM DELINQUENT PLACEMENT PILOT PROGRAM.

12 The department shall establish and implement no  
13 later than January 1, 1995, an alternative short-term  
14 delinquent placement pilot program at an existing  
15 facility for juveniles who have been adjudicated  
16 delinquent to be chosen by the department. The  
17 program shall consist of a resident phase and follow-  
18 up services. The resident phase of the program shall  
19 stress discipline and physical activities. The  
20 department shall develop criteria for the regimen to  
21 be followed and for admission to the resident phase.  
22 The department shall also develop criteria for  
23 providing follow-up services to a child who  
24 successfully completes the resident phase. Follow-up  
25 services shall be community-based and designed to  
26 assist the child to live without supervision after the  
27 provision of follow-up services ends.

28 Sec. 33. NEW SECTION. 232.192 EARLY INTERVENTION  
29 AND FOLLOW-UP PROGRAMS.

30 Contingent on a specific appropriation for these  
31 purposes, the department shall do the following:

32 1. Develop or expand programs providing specific  
33 life skills and interpersonal skills training for  
34 adjudicated delinquent youth who pose a low or  
35 moderate risk to the community.

36 2. Develop or expand a school-based program  
37 addressing truancy and school behavioral problems for  
38 youth ages twelve through seventeen.

39 3. Develop or expand an intensive tracking and  
40 supervision program for adjudicated delinquent youth  
41 at risk for placement who have been released from  
42 resident facilities, which shall include telephonic or  
43 electronic tracking and monitoring and intervention by  
44 juvenile authorities.

45 4. Develop or expand supervised community  
46 treatment for adjudicated delinquent youth who  
47 experience significant problems and who constitute a  
48 moderate community risk.

49 Sec. 34. NEW SECTION. 280.9B VIOLENCE PREVENTION  
50 CURRICULUM.

S-5609

-13-

S-5609

Page 14

1 The department of education shall develop a  
2 statewide violence-prevention program based on law-  
3 related-education. The department shall contract with  
4 a law-related education agency that serves the state  
5 and provides a comprehensive plan to develop violence  
6 prevention curricula for grades K through twelve,  
7 provide training to teachers and school administrators  
8 on violence prevention, and develop school-community  
9 partnerships for violence prevention.

10 Sec. 35. Section 299.8, Code 1993, is amended to  
11 read as follows:

12 299.8 "TRUANT" DEFINED.

13 Any child of compulsory attendance age who fails to  
14 attend school as provided in this chapter, or as  
15 required by the school board's or school governing  
16 body's attendance policy, or who fails to attend  
17 competent private instruction under chapter 299A,  
18 without reasonable excuse for the absence, shall be  
19 deemed to be a truant. ~~A-finding-that-a-child-is~~  
20 ~~truant, however, shall not by itself mean that the~~  
21 ~~child is a child in need of assistance within the~~  
22 ~~meaning of chapter 232 and shall not be the sole basis~~  
23 ~~for a child in need of assistance petition.~~

24 Sec. 36. NEW SECTION. 321.210B SUSPENSION OF  
25 PERSON'S LICENSE FOR ALCOHOL OFFENSES.

26 The department shall suspend for ninety days for a  
27 first offense, one hundred eighty days for a second  
28 offense, and one year for third and subsequent  
29 offenses the motor vehicle license of a person under  
30 the age of eighteen who is adjudicated delinquent for  
31 a violation of section 123.47 or 321J.2 if not  
32 otherwise revoked under section 321J.4.

33 Sec. 37. NEW SECTION. 321.210C SUSPENSION OF  
34 PERSON'S LICENSE FOR TRUANCY CONSTITUTING A DELINQUENT  
35 ACT.

36 The department shall suspend for ninety days the  
37 motor vehicle license of a juvenile who commits a  
38 delinquent act under section 232.2, subsection 12,  
39 paragraph "c", or postpone the issuance of a license  
40 for ninety days in the case of a juvenile who had not  
41 yet received a license at the time the delinquent act  
42 was committed.

43 Sec. 38. Section 321.216B, Code Supplement 1993,  
44 is amended to read as follows:

45 321.216B USE OF MOTOR VEHICLE LICENSE BY UNDERAGE  
46 PERSON TO OBTAIN ALCOHOL.

47 A person who is under the age of twenty-one, who  
48 alters or displays or has in the person's possession a  
49 fictitious or fraudulently altered motor vehicle  
50 license and who uses the license to violate or attempt

S-5609

-14-

S-5609

Page 15

1 to violate section 123.47 or ~~123-47A~~, commits a simple  
2 misdemeanor. The court shall forward a copy of the  
3 conviction or order of adjudication under section  
4 232.47 to the department.

5 Sec. 39. Section 453A.2, Code 1993, is amended to  
6 read as follows:

7 453A.2 PERSONS UNDER LEGAL AGE.

8 1. A person shall not sell, give, or otherwise  
9 supply any tobacco, tobacco products, or cigarettes to  
10 any person under eighteen years of age ~~and-a.~~

11 2. A person under eighteen years of age shall not  
12 smoke, use, possess, purchase, or attempt to purchase  
13 any tobacco, tobacco products, or cigarettes.

14 3. The Iowa department of public health, a  
15 county health department, a city health department, or  
16 a city may directly enforce this section in district  
17 court and initiate proceedings pursuant to section  
18 453A.22 before a permit-issuing authority against a  
19 permit holder violating this section.

20 4. Payment and distribution of court costs,  
21 fees, and fines in a prosecution initiated by a city  
22 or county shall be made as provided in chapter 602 for  
23 violation of a city or county ordinance.

24 Sec. 40. Section 453A.3, Code 1993, is amended to  
25 read as follows:

26 453A.3 PENALTY.

27 A person who violates section 453A.2, subsection 1  
28 or 453A.39 is guilty of a simple misdemeanor.

29 A person who violates section 453A.2, subsection 2,  
30 shall pay a civil penalty pursuant to section 805.8,  
31 subsection 11. Failure to pay the civil penalty  
32 imposed for a violation of section 453A.2, subsection  
33 2, is a simple misdemeanor punishable as a scheduled  
34 violation under section 805.8, subsection 11.

35 Sec. 41. Section 613.16, subsection 2, Code 1993,  
36 is amended to read as follows:

37 2. The legal obligation of the parent or parents  
38 of an unemancipated minor child under the age of  
39 eighteen years to pay damages shall be limited as  
40 follows:

41 a. Not more than one two thousand dollars for any  
42 one act.

43 b. Not more than two five thousand dollars,  
44 payable to the same claimant, for two or more acts.

45 Sec. 42. Section 709A.2, Code 1993, is amended to  
46 read as follows:

47 709A.2 PENALTY -- NOT A BAR.

48 A violation of section 709A.1, subsection 1, is a  
49 simple serious misdemeanor. Any other violation of  
50 section 709A.1 is a simple misdemeanor. A conviction

S-5609

-15-



S-5509

Page 16

1 does not bar a prosecution of the convicted person for  
2 an another indictable offense when the acts which  
3 caused or contributed to the delinquency or dependency  
4 of the child are indictable.

5 Sec. 43. NEW SECTION. 709C.1 SEXUALLY VIOLENT  
6 PREDATOR ACT.

7 This chapter shall be known as the "Sexually  
8 Violent Predator Act".

9 Sec. 44. NEW SECTION. 709C.2 DEFINITIONS.

10 As used in this chapter, unless the context clearly  
11 requires otherwise:

12 1. "Mental abnormality" means a congenital or  
13 acquired condition affecting the emotional or  
14 volitional capacity which predisposes the person to  
15 the commission of criminal sexual acts in a degree  
16 constituting the person a menace to the health and  
17 safety of others.

18 2. "Predatory" means acts directed towards  
19 strangers or individuals with whom a relationship has  
20 been established or promoted for the primary purpose  
21 of victimization.

22 3. "Sexually violent offense" means an act which  
23 is at least one of the following:

24 a. A public offense under section 709.2, 709.3,  
25 709.4, 709.8, 709.11, 709.12, or 709.14.

26 b. Murder in the first degree or second degree  
27 under section 707.2 or 707.3, assault under section  
28 708.1, domestic abuse assault under section 708.2A,  
29 kidnapping in the first degree or in the second degree  
30 under section 710.2 or 710.3, burglary or attempted  
31 burglary in the first degree under section 713.3 or  
32 713.4, which is determined beyond a reasonable doubt  
33 at the time of sentencing or during civil commitment  
34 proceedings subsequent to the offense to have been  
35 sexually motivated.

36 c. A felony offense under federal law or the law  
37 of another state which is equivalent to one of the  
38 offenses listed in paragraph "a" or "b".

39 d. A violation of chapter 705 or 706 regarding an  
40 offense listed in paragraph "a", "b", or "c".

41 4. "Sexually violent predator" means a person who  
42 has been convicted of or charged with a sexually  
43 violent offense and who suffers from a mental  
44 abnormality or personality disorder which makes the  
45 person likely to engage in predatory acts of sexual  
46 violence.

47 Sec. 45. NEW SECTION. 709C.3 SEXUALLY VIOLENT  
48 PREDATOR PETITION.

49 1. The county attorney or the attorney general at  
50 the request of the county attorney, may file a

S-5609

-16-

S-5609

Page 17

1 petition alleging that a person is a sexually violent  
2 predator. The petition shall state sufficient facts  
3 to support the allegation.

4 2. A petition may be filed in the following  
5 circumstances:

6 a. The person has been convicted of, plead guilty  
7 to, or been adjudicated delinquent for committing a  
8 sexually violent offense.

9 b. The person has been found not guilty of a  
10 sexually violent offense by reason of insanity, or has  
11 been found incompetent to stand trial for allegedly  
12 committing a sexually violent offense.

13 c. The person is within ninety days of release  
14 from a facility to which the person was committed  
15 pursuant to the determination made in either paragraph  
16 "a" or "b".

17 Sec. 46. NEW SECTION. 709C.4 JUDICIAL  
18 DETERMINATION -- TRANSFER FOR EVALUATION.

19 Upon the filing of a petition under section 709C.3,  
20 if the court determines that probable cause exists to  
21 believe that the person named in the petition is a  
22 sexually violent predator the court shall transfer a  
23 person to an appropriate facility for evaluation as to  
24 whether the person is a sexually violent predator.  
25 The evaluation shall be conducted by a person deemed  
26 to be professionally qualified to conduct the  
27 examination pursuant to rules adopted by the  
28 department of corrections in consultation with the  
29 department of human services and the criminal and  
30 juvenile justice planning division of the department  
31 of human rights.

32 Sec. 47. NEW SECTION. 709C.5 TRIAL -- RIGHTS OF  
33 PARTIES.

34 Not later than forty-five days after the filing of  
35 a petition pursuant to section 709C.3, the court shall  
36 conduct a trial to determine whether the person is a  
37 sexually violent predator. At all stages of the  
38 proceedings under this chapter, any person subject to  
39 this chapter shall be entitled to the assistance of  
40 counsel, and if the person is indigent, the court  
41 shall appoint counsel to assist the person. If a  
42 person is subjected to an examination under this  
43 chapter, the person may retain experts or professional  
44 persons to perform an examination on the person's  
45 behalf. The person may be examined by a qualified  
46 expert or professional person of the person's  
47 choosing, and the expert or professional shall have  
48 reasonable access to the person for the purpose of the  
49 examination, as well as to all relevant medical and  
50 psychological records and reports. In the case of a

S-5609

-17-

S-5609

Page 18

1 person who is indigent, the court shall, upon the  
2 person's request, assist the person in obtaining an  
3 expert or professional person to perform an  
4 examination or participate in the trial on the  
5 person's behalf. The person, the county attorney or  
6 the attorney general, or the judge shall have the  
7 right to demand that the trial be before a jury, if  
8 the person is an adult or a juvenile who has been  
9 waived to the district court. If no demand is made,  
10 or if the person is a juvenile who has not been waived  
11 to the district court, the trial shall be to the court  
12 or the juvenile court as applicable.

13 Sec. 48. NEW SECTION. 709C.6 TRIAL -- DETER-  
14 MINATION -- COMMITMENT PROCEDURES.

15 1. The court or jury shall determine whether,  
16 beyond a reasonable doubt, the person is a sexually  
17 violent predator. If the state alleges that the prior  
18 sexually violent offense that forms the basis for the  
19 petition for commitment was an act that was sexually  
20 motivated, the state shall prove beyond a reasonable  
21 doubt that the alleged sexually violent act was  
22 sexually motivated. If the court or jury determines  
23 that the person is a sexually violent predator, the  
24 person shall be committed to the custody of the  
25 department of human services in a secure facility for  
26 control, care, and treatment until such time as the  
27 person's mental abnormality of personality disorder  
28 has so changed that the person is safe to be at large.  
29 This control, care, and treatment shall be provided at  
30 a facility operated by the department of human  
31 services, however, adults and juveniles shall not be  
32 sent to the same facility. If the court or jury does  
33 not find beyond a reasonable doubt that the person is  
34 a sexually violent predator, the court shall order the  
35 person to be released in accordance with the terms of  
36 the person's sentence.

37 2. If the person charged with a sexually violent  
38 offense has been found incompetent to stand trial, and  
39 is about to or has been released and the person's  
40 commitment is sought pursuant to subsection 1, the  
41 court shall first hear evidence and determine whether  
42 the person did commit the act or acts charged if the  
43 court did not enter a finding prior to dismissal due  
44 to incompetence that the person committed the act or  
45 acts charged. The hearing on this issue shall comply  
46 with all the procedures specified in this section. In  
47 addition, the rules of evidence applicable in criminal  
48 cases shall apply, and all constitutional rights  
49 available to defendants at criminal trials, other than  
50 the right not to be tried while incompetent, shall

S-5609

-18-

S-5609

Page 19

1 apply. After hearing evidence on this issue, the  
2 court shall make specific findings on whether the  
3 person did commit the act charged, the extent to which  
4 the person's incompetence or developmental disability  
5 affected the outcome of the hearing, including its  
6 effect on the person's ability to consult with and  
7 assist counsel and to testify on the person's own  
8 behalf, the extent to which the evidence could be  
9 reconstructed without the assistance of the person,  
10 and the strength of the prosecution's case. If, after  
11 the conclusion of the hearing on the issue, the court  
12 finds beyond a reasonable doubt that the person did  
13 commit the act charged, the court shall enter a final  
14 order, appealable by the person, on that issue, and  
15 may proceed to consider whether the person should be  
16 committed pursuant to this section.

17 Sec. 49. NEW SECTION. 709C.7 ANNUAL  
18 EXAMINATIONS.

19 Each person committed under this chapter shall have  
20 a current examination of the person's mental condition  
21 made at least once every year. The person may retain,  
22 or if the person is indigent and so requests, the  
23 court may appoint, a qualified expert or a  
24 professional person to examine the person, and the  
25 expert or professional person shall have access to all  
26 records concerning the person. The periodic report  
27 shall be provided to the court that committed the  
28 person under this chapter.

29 Sec. 50. NEW SECTION. 709C.8 PETITION FOR  
30 RELEASE -- PROCEDURES.

31 1. If the director of the department of human  
32 services determines that the person's mental  
33 abnormality or personality disorder has so changed  
34 that the person is not likely to engage in predatory  
35 acts of sexual violence if released, the director  
36 shall authorize the person to petition the court for  
37 release. The petition shall be served upon the court  
38 and the county attorney. The court, upon receipt of  
39 the petition for release, shall order a hearing on the  
40 petition to be held not later than forty-five days  
41 after the date of service of the petition. The county  
42 attorney or the attorney general, if requested by the  
43 county, shall represent the state, and shall have the  
44 right to have the petitioner examined by an expert or  
45 professional person of county attorney's or attorney  
46 general's choice. The hearing shall be before a jury  
47 if demanded by either the petitioner or the state's  
48 counsel. The burden of proof shall be upon the county  
49 attorney or attorney general to show beyond a  
50 reasonable doubt that the petitioner's mental

S-5609

-19-

S-5609

Page 20

1 abnormality or personality disorder remains such that  
2 the petitioner is not safe to be at large and that if  
3 discharged is likely to engage in predatory acts of  
4 sexual violence.

5 2. Nothing contained in this chapter shall  
6 prohibit the person from otherwise petitioning the  
7 court for discharge without the approval of the  
8 director of the department of human services. The  
9 director shall provide the committed person with an  
10 annual written notice of the person's right to  
11 petition the court for release over the director's  
12 objection. The notice shall contain a waiver of  
13 rights. The director shall forward the notice and  
14 waiver form to the court with the annual report. If  
15 the person does not affirmatively waive the right to  
16 petition, the court shall set a show cause hearing to  
17 determine whether facts exist that warrant a hearing  
18 on whether the person's condition has so changed that  
19 the person is safe to be at large. The committed  
20 person shall have a right to have an attorney  
21 represent the person at the show cause hearing but the  
22 person is not entitled to be present at the show cause  
23 hearing. If the court at the show cause hearing  
24 determines that probable cause exists to believe that  
25 the person's mental abnormality or personality  
26 disorder has so changed that the person is safe to be  
27 at large and is not likely to engage in predatory acts  
28 of sexual violence if discharged, the court shall set  
29 a hearing on the issue. At the hearing the committed  
30 person shall be entitled to be present and to the  
31 benefit of all constitutional protections that were  
32 afforded to the person at the initial commitment  
33 proceeding. The county attorney or attorney general  
34 shall represent the state and shall have a right to  
35 request a jury trial and to have the committed person  
36 evaluated by experts chosen by the state. The  
37 committed person shall also have the right to have  
38 experts evaluate the person on the person's behalf and  
39 the court shall appoint an expert if the person is  
40 indigent and requests an appointment. The burden of  
41 proof at the hearing shall be upon the state to prove  
42 beyond a reasonable doubt that the committed person's  
43 mental abnormality or personality disorder remains  
44 such that the person is not safe to be at large and if  
45 released is likely to engage in predatory acts of  
46 sexual violence.

47 Sec. 51. NEW SECTION. 709C.9 SUBSEQUENT  
48 PETITIONS.

49 Nothing in this chapter shall prohibit a person  
50 from filing a petition for discharge pursuant to this

S-5609

-20-

S-5609

Page 21

1 chapter. However, if a person has previously filed a  
2 petition for discharge without the approval of the  
3 director of the department of human services and the  
4 court has determined, either upon review of the  
5 petition or following a hearing, that the petitioner's  
6 petition was frivolous or that the petitioner's  
7 condition had not so changed that the petitioner was  
8 safe to be at large, the court shall deny the  
9 subsequent petition unless the petition contains facts  
10 upon which a court could find that the condition of  
11 the petitioner has so changed that a hearing is  
12 warranted. Upon receipt of a first or subsequent  
13 petition from a committed person without the  
14 director's approval, the court shall review the  
15 petition and determine if the petition is based upon  
16 frivolous grounds and if so shall deny the petition  
17 without a hearing.

18 Sec. 52. NEW SECTION. 709C.10 RELEASE OF  
19 INFORMATION AUTHORIZED.

20 Notwithstanding any other provision to the  
21 contrary, the director of the department of human  
22 services is authorized to release relevant information  
23 that is necessary to protect the public, concerning a  
24 specific sexually violent predator committed under  
25 this chapter.

26 Sec. 53. Section 723A.1, subsection 1, Code 1993,  
27 is amended by adding the following new paragraph:

28 NEW PARAGRAPH. g. An offense constituting a  
29 violation of section 725.2.

30 Sec. 54. Section 723A.2, Code 1993, is amended by  
31 adding the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. Criminal intelligence  
33 data under section 692.1 may include relevant  
34 information pertaining to the person's association or  
35 affiliation with a criminal street gang.

36 Sec. 55. NEW SECTION. 724.4A WEAPONS FREE ZONES  
37 -- ENHANCED PENALTIES.

38 1. As used in this section, "weapons free zone"  
39 means the area in or on, or within one thousand feet  
40 of, the real property comprising a public or private  
41 elementary or secondary school, or in or on the real  
42 property comprising a public park. A weapons free  
43 zone shall not include that portion of a public park  
44 designated as a hunting area under section 461A.42.

45 2. Notwithstanding sections 902.9 and 903.1, a  
46 person who commits a public offense involving a  
47 firearm or offensive weapon, within a weapons free  
48 zone, in violation of this or any other chapter shall  
49 be sentenced as follows:

50 a. If the offense is a class "D" felony, by

S-5609

-21-

S-5609

Page 22

1 imprisonment not to exceed ten years and a fine of not  
2 more than ten thousand dollars.

3 b. If the offense is an aggravated misdemeanor, by  
4 imprisonment not to exceed five years and a fine of  
5 not more than seven thousand five hundred dollars.

6 c. If the offense is a serious misdemeanor, by  
7 imprisonment not to exceed one year and six months or  
8 a fine of not more than five thousand dollars, or  
9 both.

10 d. If the offense is a simple misdemeanor, by  
11 imprisonment not to exceed one year or a fine of not  
12 more than one thousand dollars, or both.

13 Sec. 56. Section 724.22, subsections 1 and 2, Code  
14 1993, are amended to read as follows:

15 1. Except as provided in subsection 3, a person  
16 who sells, loans, gives, or makes available a rifle or  
17 shotgun or ammunition for a rifle or shotgun to a  
18 minor commits a simple serious misdemeanor for a first  
19 offense and a class "D" felony for second and  
20 subsequent offenses.

21 2. Except as provided in subsections 4 and 5, a  
22 person who sells, loans, gives, or makes available a  
23 pistol or revolver or ammunition for a pistol or  
24 revolver to a person below the age of twenty-one  
25 commits a simple serious misdemeanor for a first  
26 offense and a class "D" felony for second and  
27 subsequent offenses.

28 Sec. 57. NEW SECTION. 724.30 RECKLESS USE OF A  
29 FIREARM.

30 A person who intentionally discharges a firearm in  
31 a reckless manner commits the following:

32 1. A class "C" felony if a serious injury occurs.

33 2. A class "D" felony if a bodily injury which is  
34 not a serious injury occurs.

35 3. An aggravated misdemeanor if property damage  
36 occurs without a serious injury or bodily injury  
37 occurring.

38 4. A simple misdemeanor if no injury to a person  
39 or damage to property occurs.

40 Sec. 58. Section 726.6, subsections 2 and 3, Code  
41 1993, are amended to read as follows:

42 2. a. A person who commits three or more acts of  
43 child endangerment resulting in serious injury to a  
44 child or minor is guilty of a class "B" felony.

45 b. Except as otherwise provided in paragraph  
46 "a", a person who commits child endangerment resulting  
47 in serious injury to a child or minor is guilty of a  
48 class "C" felony.

49 c. A person who commits three or more acts of  
50 child endangerment not resulting in serious injury to

S-5609

-22-

S-5609

Page 23

1 a child or minor is guilty of a class "C" felony.

2 3 d. A Except as otherwise provided in paragraph

3 "c", a person who commits child endangerment not

4 resulting in serious injury to a child or minor is

5 guilty of an aggravated misdemeanor.

6 Sec. 59. Section 805.8, subsection 10, Code

7 Supplement 1993, is amended to read as follows:

8 10. ALCOHOLIC BEVERAGE VIOLATIONS. For violations

9 of section ~~123-47A~~ 123.47, which constitute first

10 offenses as provided in that section, the scheduled

11 fine is fifteen dollars.

12 Sec. 60. Section 805.8, subsection 11, Code

13 Supplement 1993, is amended to read as follows:

14 11. SMOKING VIOLATIONS. For violations of section

15 142B.6 or 453A.2, subsection 2, the scheduled fine is

16 twenty-five dollars, and is a civil penalty, and the

17 criminal penalty surcharge under section 911.2 shall

18 not be added to the penalty, and the court costs

19 pursuant to section 805.9, subsection 6, shall not be

20 imposed. If the civil fine penalty assessed for a

21 violation of section 142B.6 is not paid in a timely

22 manner, a citation shall be issued for the violation

23 in the manner provided in section 804.1. However, a

24 person under age eighteen shall not be detained in a

25 secure facility for failure to pay the civil penalty.

26 The complainant shall not be charged a filing fee.

27 For failing to pay the civil penalty under section

28 453A.2, the scheduled fine is twenty-five dollars.

29 Failure to pay the scheduled fine shall not result in

30 the person being detained in a secure facility. The

31 complainant shall not be charged a filing fee.

32 Sec. 61. Section 808A.1, subsection 1, paragraph

33 d, Code 1993, is amended to read as follows:

34 d. A school locker, desk, or other facility or

35 space issued or assigned to, or chosen by, the student

36 for the storage of personal belongings of any kind,

37 which the student locks or is permitted to lock.

38 School officials may conduct periodic inspections of

39 all school lockers, provided the student is present

40 when the student's locker is searched. However, ~~the~~

41 ~~school-district-shall-provide-notice-to-the-students,~~

42 ~~at-least-twenty-four-hours-prior-to-the-inspection, of~~

43 ~~the-date-and-time-of-the-inspection.~~

44 Sec. 62. Section 808B.9, Code 1993, is amended to

45 read as follows:

46 808B.9 REPEAL.

47 This chapter is repealed effective July 1, 1994

48 1999.

49 Sec. 63. Section 809.1, Code 1993, is amended to

50 read as follows:

S-5609

-23-



S-5609

Page 24

1 809.1 DEFINITIONS.

2 As used in this chapter, unless the context  
3 otherwise requires:

4 1. "Seizable property" means any of the following:

5 a. Property which is relevant in a criminal  
6 prosecution or investigation or in delinquency  
7 proceedings or investigations of delinquent acts  
8 pursuant to chapter 232.9 b. Property defined by law to be forfeitable  
10 property.11 c. Property which if not seized by the state poses  
12 an imminent danger to a person's health, safety, or  
13 welfare.14 2. "Forfeitable property" means any of the  
15 following:

16 a. Property which is illegally possessed.

17 b. Property which has been used or is intended to  
18 be used to facilitate the commission of a criminal  
19 offense or delinquent act or to avoid detection or  
20 apprehension of a person committing a criminal offense  
21 or delinquent act.22 c. Property which is acquired as or from the  
23 proceeds of a criminal offense or delinquent act.24 d. Property offered or given to another as an  
25 inducement for the commission of a criminal offense or  
26 delinquent act.27 3. "Seized property" means property taken or held  
28 by any law enforcement agency without the consent of  
29 the person, if any, who had possession or a right to  
30 possession of the property at the time it was taken  
31 into custody. Seized property does not include  
32 property taken into custody solely for safekeeping  
33 purposes or property taken into custody with the  
34 consent of the owner or the person who had possession  
35 at the time of the taking. If consent to the taking  
36 of property was given by the person in possession of  
37 the property and later withdrawn or found to be  
38 insufficient, the property shall then be returned or  
39 the property shall be deemed seized as of the time of  
40 the demand and refusal.41 4. The definitions contained in subsections 1  
42 through 3 shall not apply to violations of chapter 321  
43 or 321J, or to delinquent acts arising solely as a  
44 result of a violation of chapter 321J.45 Sec. 64. Section 809.5, subsection 1, Code 1993,  
46 is amended to read as follows:47 1. Seized property which is no longer required as  
48 evidence or for use in an investigation may be  
49 returned to the owner without the requirement of a  
50 hearing, provided that the person's possession of the

S-5609

-24-

S-5609

Page 25

1 property is not prohibited by law and there is no  
2 forfeiture claim filed on behalf of the state. The  
3 seizing agency or, prosecuting attorney, or county  
4 attorney filing a delinquency petition shall send  
5 notice by regular mail, if the value of the property  
6 is less than fifty dollars, or certified mail, if the  
7 value of the property is equal to or greater than  
8 fifty dollars, to the last known address of any person  
9 having an ownership or possessory right in the  
10 property stating that the property is released and  
11 must be claimed within thirty days. Such notice shall  
12 state that if no written claim for the property is  
13 made upon the seizing agency within thirty days after  
14 the mailing of notice, the property shall be deemed  
15 abandoned and disposed of accordingly. In the event  
16 that there is more than one party who may assert a  
17 right to possession or ownership of the property, the  
18 seizing agency shall not release the property to any  
19 party until the expiration of the date for filing  
20 claims unless all other claimants execute a written  
21 waiver. In the event that there is more than one  
22 claim filed for the return of property under this  
23 section, at the expiration of the period for filing  
24 claims the seizing agency or, prosecuting attorney, or  
25 county attorney filing a delinquency petition shall  
26 file a copy of all such claims with the clerk of court  
27 and the clerk shall proceed as if such claims were  
28 filed by the parties under section 809.3. In the  
29 event that no owner can be located or no claim is  
30 filed under this section, the property shall be deemed  
31 abandoned and the seizing agency shall become the  
32 owner of such property and may dispose of it in any  
33 reasonable manner.

34 Sec. 65. Section 809.5, subsection 2, paragraph c,  
35 Code 1993, is amended to read as follows:

36 c. The state has demonstrated that the evidence is  
37 needed in a criminal investigation or prosecution or  
38 in delinquency proceedings or investigations of  
39 delinquent acts pursuant to chapter 232.

40 Sec. 66. Section 809.5, subsection 3, Code 1993,  
41 is amended to read as follows:

42 3. The court shall, subject to any unresolved  
43 forfeiture hearing, make orders appropriate to the  
44 final disposition of the property including, but not  
45 limited to, the destruction of contraband once it is  
46 no longer needed in an investigation or prosecution,  
47 or pursuant to delinquency proceedings under chapter  
48 232.

49 Sec. 67. Section 809.7, unnumbered paragraph 2,  
50 Code 1993, is amended to read as follows:

S-5609

-25-

S-5609

Page 26

1 Property which has been seized for forfeiture, and  
2 is not already secured as evidence in a criminal case  
3 or delinquency proceedings pursuant to chapter 232,  
4 shall be safely secured or stored by the agency which  
5 caused its seizure unless directed otherwise by the  
6 attorney general.

7 Sec. 68. Section 809.11, subsection 1, Code 1993,  
8 is amended to read as follows:

9 1. Forfeiture is a civil proceeding. At the  
10 hearing the burden is on the state to prove by a  
11 preponderance of the evidence that the property is  
12 forfeitable. However, forfeiture is not dependent  
13 upon a prosecution for, or conviction of, a criminal  
14 offense, or the filing of a delinquency complaint or  
15 petition or adjudication of delinquency pursuant to  
16 chapter 232, and forfeiture proceedings are separate  
17 and distinct from any related criminal or juvenile  
18 court action.

19 Sec. 69. Section 809.12, subsection 2, Code 1993,  
20 is amended to read as follows:

21 2. If property forfeitable under this chapter is  
22 needed as evidence in a criminal or delinquency  
23 proceeding, it shall be retained under the control of  
24 the prosecuting attorney, or the prosecuting  
25 attorney's designee, or the county attorney filing a  
26 delinquency petition or the county attorney's  
27 designee, until such time as its use as evidence is no  
28 longer required.

29 Sec. 70. Section 809.13, subsection 2, Code 1993,  
30 is amended to read as follows:

31 2. Forfeited property not needed as evidence in a  
32 criminal case or delinquency proceeding shall be  
33 delivered to the department of justice, or, upon  
34 written authorization of the attorney general or the  
35 attorney general's designee, the property may be  
36 destroyed, sold, or delivered to an appropriate agency  
37 for disposal in accordance with this section.

38 Sec. 71. Section 809.13, subsection 4, Code 1993,  
39 is amended to read as follows:

40 4. Forfeited property which is not used by the  
41 department of justice in the enforcement of the law  
42 may be requisitioned by the department of public  
43 safety or any law enforcement agency within the state  
44 for use in enforcing the criminal laws of this state  
45 and the delinquency provisions of chapter 232.

46 Forfeited property not requisitioned may be delivered  
47 to the director of the department of general services  
48 to be disposed of in the same manner as property  
49 received pursuant to section 18.15.

50 Sec. 72. Section 809.14, subsection 1, Code 1993,

S-5609

-26-

S-5609

Page 27

1 is amended to read as follows:

2 1. Property shall not be forfeited under this  
3 chapter to the extent of the interest of an owner,  
4 other than a joint tenant, who had no part in the  
5 commission of the crime or delinquent act and who had  
6 no knowledge of the criminal or delinquent use or  
7 intended use of the property. However, if it is  
8 established by a preponderance of the evidence that  
9 the owner permitted the use of the property under  
10 circumstances in which the owner knew or should have  
11 known that the property was being used for a criminal  
12 purpose, there is a rebuttable presumption that the  
13 owner knew that the property was intended to be used  
14 in the commission of a crime.

15 Sec. 73. Section 809.14, subsection 4, Code 1993,  
16 is amended to read as follows:

17 4. This section does not preclude a civil suit by  
18 an owner of an interest in forfeited property against  
19 the party who, by criminal or delinquent use, caused  
20 the property to become forfeited to the state.

21 Sec. 74. Section 907.3, subsection 2, Code  
22 Supplement 1993, is amended to read as follows:

23 2. At the time of or after pronouncing judgment  
24 and with the consent of the defendant, the court may  
25 defer the sentence and assign the defendant to the  
26 judicial district department of correctional services.  
27 However, the court shall not defer the sentence for a  
28 violation of section 708.2A if the defendant has  
29 previously received a deferred judgment or sentence  
30 for a violation of section 708.2 or 708.2A which was  
31 issued on a domestic abuse assault, or if similar  
32 relief was granted anywhere in the United States  
33 concerning that jurisdiction's statutes which  
34 substantially correspond to domestic abuse assault as  
35 provided in section 708.2A, and the court shall not  
36 defer a sentence for a violation of section 124.406,  
37 subsection 4. In addition, the court shall not defer  
38 a sentence if it is imposed for contempt pursuant to  
39 section 236.8 or 236.14. Upon a showing that the  
40 defendant is not fulfilling the conditions of  
41 probation, the court may revoke probation and impose  
42 any sentence authorized by law. Before taking such  
43 action, the court shall give the defendant an  
44 opportunity to be heard on any matter relevant to the  
45 proposed action. Upon violation of the conditions of  
46 probation, the court may proceed as provided in  
47 chapter 908.

48 Sec. 75. Section 907.3, subsection 3, Code  
49 Supplement 1993, is amended to read as follows:

50 3. By record entry at the time of or after

S-5609

S-5609

Page 28

1 sentencing, the court may suspend the sentence and  
 2 place the defendant on probation upon such terms and  
 3 conditions as it may require including commitment to  
 4 an alternate jail facility or a community correctional  
 5 residential treatment facility for a specific number  
 6 of days to be followed by a term of probation as  
 7 specified in section 907.7. A person so committed who  
 8 has probation revoked shall be given credit for such  
 9 time served. However, the court shall not suspend the  
 10 minimum term of two days imposed pursuant to section  
 11 708.2A, and the court shall not suspend a sentence  
 12 imposed pursuant to section 236.8 or 236.14 for  
 13 contempt or the minimum term of five years imposed by  
 14 section 124.406, subsection 4.

15 Sec. 76. Section 123.47A, Code 1993, is repealed.

16 Sec. 77. APPROPRIATION -- TRANSFER. For the  
 17 fiscal year beginning July 1, 1994, and ending June  
 18 30, 1995, \$362,500 shall be appropriated from the  
 19 general fund to the governor's alliance on substance  
 20 abuse to provide one-time grants to community-based  
 21 correctional programs for replication of the youthful  
 22 offender program established in Polk county. The  
 23 governor's alliance on substance abuse may provide a  
 24 one-time grant of up to \$100,000 to each eligible  
 25 community-based correctional program, which applies  
 26 for a grant for a proposal for replication of the  
 27 youthful offender program to the governor's alliance  
 28 on substance abuse by September 1, 1994. The  
 29 governor's alliance on substance abuse shall submit a  
 30 report to the general assembly regarding the  
 31 distribution of these funds by January 15, 1995.

32 Sec. 78. APPROPRIATION -- TRUANCY AND SCHOOL  
 33 BEHAVIORAL PROBLEMS. There is appropriated from the  
 34 general fund of the state to the department of human  
 35 services for the fiscal year beginning July 1, 1994,  
 36 and ending June 30, 1995, the following amount, or so  
 37 much thereof as is necessary, to be used for the  
 38 purpose designated:

39 For school-based programs addressing truancy and  
 40 school behavioral problems pursuant to section  
 41 232.192, subsection 2, as enacted in this Act:

42 ..... \$ 200,000

43 Sec. 79. APPROPRIATION -- VIOLENCE PREVENTION  
 44 CURRICULUM. There is appropriated from the general  
 45 fund of the state to the department of education for  
 46 the fiscal year beginning July 1, 1994, and ending  
 47 June 30, 1995, the following amount, or so much  
 48 thereof as is necessary, to be used for the following  
 49 purpose:

50 For implementation of a statewide violence

S-5609

S-5609

Page 29

1 prevention program pursuant to section 280.9B, as  
2 enacted in this Act:

3 ..... \$ 75,000

4 Sec. 80. APPROPRIATION -- ASSOCIATE JUVENILE  
5 JUDGE. There is appropriated from the general fund of  
6 the state to the judicial department for the fiscal  
7 year beginning July 1, 1994, and ending June 30, 1995,  
8 the following amount, or so much thereof as is  
9 necessary, to be used for the purpose designated:

10 For an additional associate juvenile judge for a  
11 judicial district located in a county with a  
12 population over two hundred twenty-five thousand,  
13 including salaries, support, maintenance,  
14 miscellaneous purposes, and for not more than the  
15 following full-time equivalent positions:

16 ..... \$ 140,000

17 ..... FTEs 2.75"

18 Sec. 81. Section 62 of this Act takes effect  
19 June 30, 1994.

20 2. Title page, by striking line 1, through Title  
21 page 2, line 19 and inserting the following: "An Act  
22 relating to juvenile justice by establishing or  
23 enhancing penalties for delinquent acts which may be  
24 committed by juveniles, establishing or enhancing  
25 penalties for public offenses relating to juvenile  
26 justice, authorizing searches of student lockers in a  
27 school without advance notice, delaying the repeal of  
28 the interception of communications law, providing for  
29 the commitment of persons determined to be sexually  
30 violent predators, and making related appropriations  
31 and providing an effective date."

RECEIVED FROM THE HOUSE

S-5609 FILED APRIL 13, 1994

*Senate Refused 4-14-94*

*(P 1227)*

*House Needed*

*4-18-94  
P.1881*

## SENATE FILE 2319

H-6142

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 12, by inserting after line 41 the  
5 following:

6 "Sec. \_\_\_\_ . NEW SECTION. 709C.1 SEXUALLY VIOLENT  
7 PREDATOR ACT.

8 This chapter shall be known as the "Sexually  
9 Violent Predator Act".

10 Sec. \_\_\_\_ . NEW SECTION. 709C.2 DEFINITIONS.

11 As used in this chapter, unless the context clearly  
12 requires otherwise:

13 1. "Mental abnormality" means a congenital or  
14 acquired condition affecting the emotional or  
15 volitional capacity which predisposes the person to  
16 the commission of criminal sexual acts in a degree  
17 constituting the person a menace to the health and  
18 safety of others.

19 2. "Predatory" means acts directed towards  
20 strangers or individuals with whom a relationship has  
21 been established or promoted for the primary purpose  
22 of victimization.

23 3. "Sexually violent offense" means an act which  
24 is at least one of the following:

25 a. A public offense under section 709.2, 709.3,  
26 709.4, 709.8, 709.11, 709.12, or 709.14.

27 b. Murder in the first degree or second degree  
28 under section 707.2 or 707.3, assault under section  
29 708.1, domestic abuse assault under section 708.2A,  
30 kidnapping in the first degree or in the second degree  
31 under section 710.2 or 710.3, burglary or attempted  
32 burglary in the first degree under section 713.3 or  
33 713.4, which is determined beyond a reasonable doubt  
34 at the time of sentencing or during civil commitment  
35 proceedings subsequent to the offense to have been  
36 sexually motivated.

37 c. A felony offense under federal law or the law  
38 of another state which is equivalent to one of the  
39 offenses listed in paragraph "a" or "b".

40 d. A violation of chapter 705 or 706 regarding an  
41 offense listed in paragraph "a", "b", or "c".

42 4. "Sexually violent predator" means a person who  
43 has been convicted of or charged with a sexually  
44 violent offense and who suffers from a mental  
45 abnormality or personality disorder which makes the  
46 person likely to engage in predatory acts of sexual  
47 violence.

48 Sec. \_\_\_\_ . NEW SECTION. 709C.3 SEXUALLY VIOLENT  
49 PREDATOR PETITION.

50 1. The county attorney or the attorney general at  
H-6142

H-6142

Page 2

1 the request of the county attorney, may file a  
2 petition alleging that a person is a sexually violent  
3 predator. The petition shall state sufficient facts  
4 to support the allegation.

5 2. A petition may be filed in the following  
6 circumstances:

7 a. The person has been convicted of, plead guilty  
8 to, or been adjudicated delinquent for committing a  
9 sexually violent offense.

10 b. The person has been found not guilty of a  
11 sexually violent offense by reason of insanity, or has  
12 been found incompetent to stand trial for allegedly  
13 committing a sexually violent offense.

14 c. The person is within ninety days of release  
15 from a facility to which the person was committed  
16 pursuant to the determination made in either paragraph  
17 "a" or "b".

18 Sec. \_\_\_\_ . NEW SECTION. 709C.4 JUDICIAL  
19 DETERMINATION -- TRANSFER FOR EVALUATION.

20 Upon the filing of a petition under section 709C.3,  
21 if the court determines that probable cause exists to  
22 believe that the person named in the petition is a  
23 sexually violent predator the court shall transfer a  
24 person to an appropriate facility for evaluation as to  
25 whether the person is a sexually violent predator.  
26 The evaluation shall be conducted by a person deemed  
27 to be professionally qualified to conduct the  
28 examination pursuant to rules adopted by the  
29 department of corrections in consultation with the  
30 department of human services and the criminal and  
31 juvenile justice planning division of the department  
32 of human rights.

33 Sec. \_\_\_\_ . NEW SECTION. 709C.5 TRIAL -- RIGHTS OF  
34 PARTIES.

35 Not later than forty-five days after the filing of  
36 a petition pursuant to section 709C.3, the court shall  
37 conduct a trial to determine whether the person is a  
38 sexually violent predator. At all stages of the  
39 proceedings under this chapter, any person subject to  
40 this chapter shall be entitled to the assistance of  
41 counsel, and if the person is indigent, the court  
42 shall appoint counsel to assist the person. If a  
43 person is subjected to an examination under this  
44 chapter, the person may retain experts or professional  
45 persons to perform an examination on the person's  
46 behalf. The person may be examined by a qualified  
47 expert or professional person of the person's  
48 choosing, and the expert or professional shall have  
49 reasonable access to the person for the purpose of the  
50 examination, as well as to all relevant medical and

H-6142

-2-



H-6142

Page 3

1 psychological records and reports. In the case of a  
2 person who is indigent, the court shall, upon the  
3 person's request, assist the person in obtaining an  
4 expert or professional person to perform an  
5 examination or participate in the trial on the  
6 person's behalf. The person, the county attorney or  
7 the attorney general, or the judge shall have the  
8 right to demand that the trial be before a jury, if  
9 the person is an adult or a juvenile who has been  
10 waived to the district court. If no demand is made,  
11 or if the person is a juvenile who has not been waived  
12 to the district court, the trial shall be to the court  
13 or the juvenile court as applicable.

14 Sec. \_\_\_\_ . NEW SECTION. 709C.6 TRIAL -- DETER-  
15 MINATION -- COMMITMENT PROCEDURES.

16 1. The court or jury shall determine whether,  
17 beyond a reasonable doubt, the person is a sexually  
18 violent predator. If the state alleges that the prior  
19 sexually violent offense that forms the basis for the  
20 petition for commitment was an act that was sexually  
21 motivated, the state shall prove beyond a reasonable  
22 doubt that the alleged sexually violent act was  
23 sexually motivated. If the court or jury determines  
24 that the person is a sexually violent predator, the  
25 person shall be committed to the custody of the  
26 department of human services in a secure facility for  
27 control, care, and treatment until such time as the  
28 person's mental abnormality of personality disorder  
29 has so changed that the person is safe to be at large.  
30 This control, care, and treatment shall be provided at  
31 a facility operated by the department of human  
32 services, however, adults and juveniles shall not be  
33 sent to the same facility. If the court or jury does  
34 not find beyond a reasonable doubt that the person is  
35 a sexually violent predator, the court shall order the  
36 person to be released in accordance with the terms of  
37 the person's sentence.

38 2. If the person charged with a sexually violent  
39 offense has been found incompetent to stand trial, and  
40 is about to or has been released and the person's  
41 commitment is sought pursuant to subsection 1, the  
42 court shall first hear evidence and determine whether  
43 the person did commit the act or acts charged if the  
44 court did not enter a finding prior to dismissal due  
45 to incompetence that the person committed the act or  
46 acts charged. The hearing on this issue shall comply  
47 with all the procedures specified in this section. In  
48 addition, the rules of evidence applicable in criminal  
49 cases shall apply, and all constitutional rights  
50 available to defendants at criminal trials, other than

H-6142

H-6142

Page 4

1 the right not to be tried while incompetent, shall  
2 apply. After hearing evidence on this issue, the  
3 court shall make specific findings on whether the  
4 person did commit the act charged, the extent to which  
5 the person's incompetence or developmental disability  
6 affected the outcome of the hearing, including its  
7 effect on the person's ability to consult with and  
8 assist counsel and to testify on the person's own  
9 behalf, the extent to which the evidence could be  
10 reconstructed without the assistance of the person,  
11 and the strength of the prosecution's case. If, after  
12 the conclusion of the hearing on the issue, the court  
13 finds beyond a reasonable doubt that the person did  
14 commit the act charged, the court shall enter a final  
15 order, appealable by the person, on that issue, and  
16 may proceed to consider whether the person should be  
17 committed pursuant to this section.

18 Sec. \_\_\_\_ . NEW SECTION. 709C.7 ANNUAL

19 EXAMINATIONS.

20 Each person committed under this chapter shall have  
21 a current examination of the person's mental condition  
22 made at least once every year. The person may retain,  
23 or if the person is indigent and so requests, the  
24 court may appoint, a qualified expert or a  
25 professional person to examine the person, and the  
26 expert or professional person shall have access to all  
27 records concerning the person. The periodic report  
28 shall be provided to the court that committed the  
29 person under this chapter.

30 Sec. \_\_\_\_ . NEW SECTION. 709C.8 PETITION FOR  
31 RELEASE -- PROCEDURES.

32 1. If the director of the department of human  
33 services determines that the person's mental  
34 abnormality or personality disorder has so changed  
35 that the person is not likely to engage in predatory  
36 acts of sexual violence if released, the director  
37 shall authorize the person to petition the court for  
38 release. The petition shall be served upon the court  
39 and the county attorney. The court, upon receipt of  
40 the petition for release, shall order a hearing on the  
41 petition to be held not later than forty-five days  
42 after the date of service of the petition. The county  
43 attorney or the attorney general, if requested by the  
44 county, shall represent the state, and shall have the  
45 right to have the petitioner examined by an expert or  
46 professional person of county attorney's or attorney  
47 general's choice. The hearing shall be before a jury  
48 if demanded by either the petitioner or the state's  
49 counsel. The burden of proof shall be upon the county  
50 attorney or attorney general to show beyond a

H-6142

-4-

H-6142

Page 5

1 reasonable doubt that the petitioner's mental  
2 abnormality or personality disorder remains such that  
3 the petitioner is not safe to be at large and that if  
4 discharged is likely to engage in predatory acts of  
5 sexual violence.

6 2. Nothing contained in this chapter shall  
7 prohibit the person from otherwise petitioning the  
8 court for discharge without the approval of the  
9 director of the department of human services. The  
10 director shall provide the committed person with an  
11 annual written notice of the person's right to  
12 petition the court for release over the director's  
13 objection. The notice shall contain a waiver of  
14 rights. The director shall forward the notice and  
15 waiver form to the court with the annual report. If  
16 the person does not affirmatively waive the right to  
17 petition, the court shall set a show cause hearing to  
18 determine whether facts exist that warrant a hearing  
19 on whether the person's condition has so changed that  
20 the person is safe to be at large. The committed  
21 person shall have a right to have an attorney  
22 represent the person at the show cause hearing but the  
23 person is not entitled to be present at the show cause  
24 hearing. If the court at the show cause hearing  
25 determines that probable cause exists to believe that  
26 the person's mental abnormality or personality  
27 disorder has so changed that the person is safe to be  
28 at large and is not likely to engage in predatory acts  
29 of sexual violence if discharged, the court shall set  
30 a hearing on the issue. At the hearing the committed  
31 person shall be entitled to be present and to the  
32 benefit of all constitutional protections that were  
33 afforded to the person at the initial commitment  
34 proceeding. The county attorney or attorney general  
35 shall represent the state and shall have a right to  
36 request a jury trial and to have the committed person  
37 evaluated by experts chosen by the state. The  
38 committed person shall also have the right to have  
39 experts evaluate the person on the person's behalf and  
40 the court shall appoint an expert if the person is  
41 indigent and requests an appointment. The burden of  
42 proof at the hearing shall be upon the state to prove  
43 beyond a reasonable doubt that the committed person's  
44 mental abnormality or personality disorder remains  
45 such that the person is not safe to be at large and if  
46 released is likely to engage in predatory acts of  
47 sexual violence.

48 Sec. \_\_\_\_ . NEW SECTION. 709C.9 SUBSEQUENT  
49 PETITIONS.

50 Nothing in this chapter shall prohibit a person

H-6142

H-6142

Page 6

1 from filing a petition for discharge pursuant to this  
 2 chapter. However, if a person has previously filed a  
 3 petition for discharge without the approval of the  
 4 director of the department of human services and the  
 5 court has determined, either upon review of the  
 6 petition or following a hearing, that the petitioner's  
 7 petition was frivolous or that the petitioner's  
 8 condition had not so changed that the petitioner was  
 9 safe to be at large, the court shall deny the  
 10 subsequent petition unless the petition contains facts  
 11 upon which a court could find that the condition of  
 12 the petitioner has so changed that a hearing is  
 13 warranted. Upon receipt of a first or subsequent  
 14 petition from a committed person without the  
 15 director's approval, the court shall review the  
 16 petition and determine if the petition is based upon  
 17 frivolous grounds and if so shall deny the petition  
 18 without a hearing.

19 Sec. . NEW SECTION. 709C.10 RELEASE OF  
 20 INFORMATION AUTHORIZED.

21 Notwithstanding any other provision to the  
 22 contrary, the director of the department of human  
 23 services is authorized to release relevant information  
 24 that is necessary to protect the public, concerning a  
 25 specific sexually violent predator committed under  
 26 this chapter."

27 2. By renumbering as necessary.

By DICKINSON of Jackson

H-6142 FILED APRIL 12, 1994

ADOPTED  
 4-12-94

SENATE FILE 2319

H-6143

1 Amend amendment, H-6116, to amendment, H-6057, to  
 2 Senate File 2319, as amended, passed, and reprinted by  
 3 the Senate, as follows:

4 1. Page 1, by striking lines 28 through 31.

By DODERER of Johnson

H-6143 FILED APRIL 12, 1994

ADOPTED BY UNANIMOUS CONSENT

SENATE FILE 2319

H-6145

1 Amend the amendment, H-6057, to Senate File 2319,  
 2 as amended, passed, and reprinted by the Senate, as  
 3 follows:

4 1. Page 20, line 12, by inserting before the word  
 5 "and" the following: "providing for the commitment of  
 6 persons determined to be sexually violent predators,".

By McNEAL of Hardin

DICKINSON of Jackson

H-6145 FILED APRIL 12, 1994

ADOPTED BY UNANIMOUS CONSENT

## SENATE FILE 2319

H-6138

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 12, by inserting after line 21 the  
5 following:

6 "Sec. \_\_\_\_ . Section 602.1508, Code 1993, is amended  
7 to read as follows:

8 602.1508 COMPENSATION OF ASSOCIATE JUVENILE  
9 JUDGES, ASSOCIATE PROBATE JUDGES, SPECIAL MASTERS, AND  
10 REFEREES.

11 Referees Associate juvenile judges, associate  
12 probate judges, referees, and other persons referred  
13 to in section 602.6602 shall receive a salary or other  
14 compensation as set by the supreme court.  
15 Notwithstanding section 70A.1, vacation and sick leave  
16 benefits for full-time associate juvenile judges and  
17 associate probate judges shall be established by the  
18 supreme court."

19 2. By renumbering as necessary.

By JOCHUM of Dubuque

H-6138 FILED APRIL 12, 1994

NOT GERMANE

## SENATE FILE 2319

H-6145

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 20, by striking line 5, and inserting the  
5 following:

6 "2. Title page 1, by striking line 1, through  
7 Title page 2, line 19 and".

8 2. Page 20, line 12, by inserting before the word  
9 "and" the following: "providing for the commitment of  
10 persons determined to be sexually violent predators,".

By McNEAL of Hardin

DICKINSON of Jackson

H-6145 FILED APRIL 13, 1994

CORRECTIVE AMENDMENT - ADOPTED BY UNANIMOUS CONSENT

## SENATE FILE 2319

H-6134

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 1, by striking lines 3 and 4 and inserting  
5 the following:  
6 "\_\_\_\_. By striking page 1, line 1 through page 7,  
7 line 8 and inserting the following:"  
8 2. Page 20, by inserting after line 4 the  
9 following:  
10 "\_\_\_\_. By striking page 8, line 18 through page  
11 17, line 26.  
12 \_\_\_\_\_. By striking page 18, line 4 through page 19,  
13 line 4."  
14 3. By renumbering as necessary.

By HALVORSON of Webster

H-6134 FILED APRIL 12, 1994

LOST

## SENATE FILE 2319

H-6137

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 4, by inserting before line 1 the  
5 following:  
6 "Sec. \_\_\_\_\_. NEW SECTION. 124.401B POSSESSION OF  
7 CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY --  
8 ADDITIONAL PENALTY.  
9 In addition to any other penalties provided in this  
10 chapter or another chapter, a person who unlawfully  
11 possesses a substance listed in schedule I, II, or  
12 III, or a simulated controlled substance represented  
13 to be a controlled substance classified in schedule I,  
14 II, or III, in or on, or within one thousand feet of  
15 the real property comprising a public or private  
16 elementary, secondary or vocational school, public or  
17 private community college, college, or university,  
18 public park, public swimming pool, public or private  
19 youth center, or on a marked school bus, may be  
20 sentenced to one hundred hours of community service  
21 work for a public agency or a nonprofit charitable  
22 organization. The court shall provide the offender  
23 with a written statement of the terms and monitoring  
24 provisions of the community service."  
25 2. By renumbering as necessary.

By NEUHAUSER of Johnson

H-6137 FILED APRIL 12, 1994

ADOPTED

## SENATE FILE 2319

H-6129

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 12, by inserting after line 21 the  
5 following:

6 "Sec. \_\_\_\_ . Section 602.1508, Code 1993, is amended  
7 to read as follows:

8 602.1508 COMPENSATION OF ASSOCIATE JUVENILE  
9 JUDGES, ASSOCIATE PROBATE JUDGES, SPECIAL MASTERS, AND  
10 REFEREES.

11 Referees Associate juvenile judges, associate  
12 probate judges, referees, and other persons referred  
13 to in section 602.6602 shall receive a salary or other  
14 compensation as set by the supreme court. Associate  
15 juvenile judges and associate probate judges shall be  
16 entitled to the number of vacation days allowed for  
17 associate district judges."

18 2. By renumbering as necessary.

By JOCHUM of Dubuque

H-6129 FILED APRIL 12, 1994  
WITHDRAWN

## SENATE FILE 2319

H-6132

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 14, by striking lines 5 through 24.

5 2. By renumbering as necessary.

By DODERER of Johnson

MYERS of Johnson

H-6132 FILED APRIL 12, 1994  
WITHDRAWN

## SENATE FILE 2319

H-6128

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by inserting after line 32 the  
5 following:

6 "Sec. \_\_\_\_ . Section 123.3, subsection 19, Code  
7 Supplement 1993, is amended to read as follows:

8 19. "Legal age" means nineteen twenty-one years of  
9 age or more.

10 Sec. \_\_\_\_ . Section 123.47, Code 1993, is amended to  
11 read as follows:

12 123.47 PERSONS UNDER THE AGE OF EIGHTEEN TWENTY-  
13 ONE.

14 A person shall not sell, give, or otherwise supply  
15 alcoholic liquor, wine, or beer to any person knowing  
16 or having reasonable cause to believe that person to  
17 be under the age of eighteen twenty-one, and a person  
18 or persons under the age of eighteen twenty-one shall  
19 not individually or jointly have alcoholic liquor,  
20 wine, or beer in their possession or control; except  
21 in the case of liquor, wine, or beer given or  
22 dispensed to a person under the age of eighteen  
23 twenty-one within a private home and with the  
24 knowledge, presence, and consent of the parent or  
25 guardian for beverage or medicinal purposes or as  
26 administered to the person by either a physician or  
27 dentist for medicinal purposes and except to the  
28 extent that a person under the age of eighteen twenty-  
29 one may handle alcoholic beverages, wine, and beer  
30 during the regular course of the person's employment  
31 by a liquor control licensee, or wine or beer  
32 permittee under this chapter.

33 A person, age eighteen, nineteen, or twenty, other  
34 than a licensee or permittee, who commits a first  
35 offense under this section commits a scheduled  
36 violation of section 805.8, subsection 10. A person,  
37 age eighteen, nineteen, or twenty, other than a  
38 licensee or permittee, who commits a second or  
39 subsequent violation of this section, commits a simple  
40 misdemeanor. A licensee or permittee who violates  
41 this section with respect to a person who is age  
42 nineteen or twenty is guilty of a simple misdemeanor  
43 punishable by a fine of not more than fifty dollars.  
44 The penalty provided under this section against a  
45 licensee or permittee who violates this section with  
46 respect to a person who is age nineteen or twenty is  
47 the only penalty which shall be imposed against a  
48 licensee or permittee who violates this section. A  
49 licensee or permittee who violates this section with  
50 respect to a person who is age eighteen commits a

H-6128

-1-



H-6128

Page 2

1 simple misdemeanor, and is subject to the criminal and  
2 civil penalties provided pursuant to sections 123.49  
3 and 123.50 with respect to selling, giving, or  
4 otherwise supplying alcoholic beverages, liquor, wine,  
5 or beer to persons under legal age."

6 2. Page 11, by inserting before line 42 the  
7 following:

8 "Sec. \_\_\_\_ . Section 321.216B, Code Supplement 1993,  
9 is amended to read as follows:

10 321.216B USE OF MOTOR VEHICLE LICENSE BY UNDERAGE  
11 PERSON TO OBTAIN ALCOHOL.

12 A person who is under the age of twenty-one, who  
13 alters or displays or has in the person's possession a  
14 fictitious or fraudulently altered motor vehicle  
15 license and who uses the license to violate or attempt  
16 to violate section 123.47 ~~or 123.47A~~, commits a simple  
17 misdemeanor. The court shall forward a copy of the  
18 conviction or order of adjudication under section  
19 232.47 to the department."

20 3. Page 14, by inserting after line 4 the  
21 following:

22 "Sec. \_\_\_\_ . Section 805.8, subsection 10, Code  
23 Supplement 1993, is amended to read as follows:

24 10. ALCOHOLIC BEVERAGE VIOLATIONS. For violations  
25 of section ~~123.47A~~ 123.47, which constitute first  
26 offenses as provided in that section, the scheduled  
27 fine is fifteen dollars."

28 4. Page 19, by inserting after line 2 the  
29 following:

30 "Sec. \_\_\_\_ . Section 123.47A, Code 1993, is  
31 repealed."

32 5. By renumbering as necessary.

By KREIMAN of Davis

WEIDMAN of Cass

H-6128 FILED APRIL 12, 1994

ADOPTED

4-12-94

## SENATE FILE 2319

H-6124

1 Amend the amendment, H-6057, to Senate File 2319,  
 2 as amended, passed, and reprinted by the Senate as  
 3 follows:

4 1. Page 13, by striking line 47 and inserting the  
 5 following: "a reckless manner at or toward an  
 6 individual or at or toward an area where individuals  
 7 would reasonably be expected to be present commits the  
 8 following:"

9 2. Page 13, lines 48 and 49, by striking the  
 10 words "or over one thousand dollars of property  
 11 damage".

12 3. Page 14, lines 1 and 2, by striking the words  
 13 "or property damage of one thousand dollars or less".

14 4. Page 14, by inserting after line 2 the  
 15 following:

16 "\_\_\_\_\_. An aggravated misdemeanor if property damage  
 17 occurs without a serious injury or bodily injury  
 18 occurring."

19 5. By renumbering as necessary.

By RAFFERTY of Scott

H-6124 FILED APRIL 12, 1994

A-LOST B-ADOPTED

## SENATE FILE 2319

H-6127

1 Amend the amendment, H-6057, to Senate File 2319,  
 2 as amended, passed, and reprinted by the Senate, as  
 3 follows:

4 1. By striking page 5, line 39 through page 6,  
 5 line 7.

6 2. Page 11, by striking lines 9 through 22.

7 3. Page 11, by striking lines 32 through 41.

8 4. By renumbering as necessary.

By KREIMAN of Davis

H-6127 FILED APRIL 12, 1994

LOST

4-12-94

## SENATE FILE 2319

H-6121

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 3, line 48, by inserting after the word  
5 "park," the following: "public swimming pool, or  
6 public or private youth center,".

7 2. Page 4, line 12, by inserting after the word  
8 "park," the following: "public swimming pool, or  
9 public or private youth center,".

10 3. Page 4, line 32, by inserting after the word  
11 "park," the following: "public swimming pool, or  
12 public or private youth center,".

By LARSON of Linn

H-6121 FILED APRIL 12, 1994

OUT OF ORDER

4-12-94

## SENATE FILE 2319

H-6122

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 14, by inserting after line 36 the  
5 following:

6 "Sec. 1001. Section 808B.9, Code 1993, is amended  
7 to read as follows:

8 808B.9 REPEAL.

9 This chapter is repealed effective July 1, 1994  
10 1999."

11 2. Page 20, by inserting after line 4 the  
12 following:

13 "Sec. . . . Section 1001 of this Act takes effect  
14 June 30, 1994."

15 3. Page 20, line 12, by inserting after the word  
16 "notice," the following: "delaying the repeal of the  
17 interception of communications law,".

18 4. Page 20, line 12, by inserting after the word  
19 "appropriations" the following: "and providing an  
20 effective date".

21 5. By renumbering as necessary.

By LARSON of Linn

H-6122 FILED APRIL 12, 1994

NOT GERMANE, SUSPEND RULES TO CONSIDER, PREVAILED - ADOPTED

4-12-94

## SENATE FILE 2319

H-6123

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by striking lines 20 through 32.

By BRAND of Benton

H-6123 FILED APRIL 12, 1994

LOST

4-12-94

SENATE FILE 2319

H-6119

1 Amend the amendment, H-6057, to Senate File 2319 as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 3, by inserting after line 50 the  
5 following:

6 "A person convicted of a second or subsequent  
7 violation of this section shall be sentenced to an  
8 additional period of confinement of five years. The  
9 judge may, at the judge's discretion, also impose a  
10 fine of up to ten thousand dollars. A person paroled  
11 or placed on probation for a violation of this section  
12 shall be committed to the supervision of the  
13 appropriate judicial district department of  
14 correctional services' community-based correctional  
15 program.

16 Notwithstanding any other provision regarding the  
17 distribution of fines, moneys received from the fine  
18 imposed under this section shall be distributed by the  
19 clerk of the district court to the county in which the  
20 violation occurred and used to fund substance abuse  
21 prevention and treatment programs."

By McCOY of Polk

H-6119 FILED APRIL 12, 1994

LOST

4-12-94

SENATE FILE 2319

H-6120

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 20, by inserting after line 4 the  
5 following:

6 "Sec. \_\_\_\_ . APPROPRIATION -- VIOLENT FEMALE  
7 PROGRAM. There is appropriated from the general fund  
8 of the state to the department of human services for  
9 the fiscal year beginning July 1, 1994, and ending  
10 June 30, 1995, the following amount, or so much  
11 thereof as is necessary, to be used for an intensive  
12 supervision and treatment services program for  
13 violent, behaviorally disordered female juveniles at  
14 an existing state facility with consideration to  
15 reducing out-of-state placements of these female  
16 juveniles:

17 ..... \$ 45,000".

18 2. By renumbering as necessary.

By BRAND of Benton

H-6120 FILED APRIL 12, 1994

LOST

## SENATE FILE 2319

H-6118

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 4, by inserting before line 1 the  
5 following:

6 "Sec. \_\_\_\_ . NEW SECTION. 124.401B POSSESSION OF  
7 CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY --  
8 ADDITIONAL PENALTY.

9 In addition to any other penalties provided in this  
10 chapter or another chapter, a person who unlawfully  
11 possesses a substance listed in schedule I, II, or  
12 III, or a simulated controlled substance represented  
13 to be a controlled substance classified in schedule I,  
14 II, or III, in or on, or within one thousand feet of  
15 the real property comprising a public or private  
16 elementary, secondary or vocational school, public or  
17 private community college, college, or university,  
18 public park, public swimming pool, public or private  
19 youth center, or on a marked school bus, shall be  
20 sentenced to one hundred hours of community service  
21 work for a public agency or a nonprofit charitable  
22 organization. The court shall provide the offender  
23 with a written statement of the terms and monitoring  
24 provisions of the community service."

25 2. By renumbering as necessary.

By McCOY of Polk

H-6118 FILED APRIL 12, 1994

LOST

4-12-94

## SENATE FILE 2319

H-6117

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 3, line 47, by inserting after the word  
5 "school," the following: "vocational school, public  
6 or private community college, college, or  
7 university,".

8 2. Page 3, line 48, by inserting after the word  
9 "park," the following: "public swimming pool, public  
10 or private youth center, or on a marked school bus,".

11 3. Page 4, line 11, by inserting after the word  
12 "school," the following: "vocational school, public  
13 or private community college, college, or  
14 university,".

15 4. Page 4, line 12, by inserting after the word  
16 "park," the following: "public swimming pool, public  
17 or private youth center, or on a marked school bus,".

18 5. Page 4, line 31, by inserting after the word  
19 "school," the following: "vocational school, public  
20 or private community college, college, or  
21 university,".

22 6. Page 4, line 32, by inserting after the word  
23 "park," the following: "public swimming pool, public  
24 or private youth center, or on a marked school bus,".

By McCOY of Polk

H-6117 FILED APRIL 12, 1994

ADOPTED

4-12-94

## SENATE FILE 2319

H-6116

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 6, by inserting after line 7 the  
5 following:

6 "Sec. \_\_\_\_ . Section 232.2, subsection 22, Code  
7 1993, is amended by adding the following new  
8 unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. Unless otherwise  
10 enlarged or circumscribed by a court or juvenile court  
11 having jurisdiction over the child or by operation of  
12 law, the duties of a guardian ad litem with respect to  
13 a child shall include the following:

14 a. Conducting in-person interviews with the child  
15 and each parent, guardian, or other person having  
16 custody of the child.

17 b. Visiting the home, residence, or both home and  
18 residence of the child and any prospective home or  
19 residence of the child.

20 c. Interviewing any person providing medical,  
21 social, educational, or other services to the child.

22 d. Obtaining first-hand knowledge, if possible, of  
23 the facts, circumstances, and parties involved in the  
24 matter in which the person is appointed guardian ad  
25 litem.

26 e. Attending any hearings in the matter in which  
27 the person is appointed as the guardian ad litem.

28 Persons who are guardians ad litem for a child  
29 shall not also be the attorney for any party, other  
30 than the child, in any proceeding involving or  
31 regarding the child."

32 2. By renumbering as necessary.

By DODERER of Johnson

H-6116 FILED APRIL 12, 1994  
RULED N G, MOTION TO SR, LOST,  
Unanimous consent to consider,  
Adopted.

4.12-94

## SENATE FILE 2319

H-6114

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 8, line 2, by striking the word  
5 "subsections" and inserting the following:  
6 "subsection".  
7 2. Page 8, by striking lines 14 through 19.  
8 3. By striking page 9, line 48 through page 10,  
9 line 8.  
10 4. By striking page 14, line 37, through page 18,  
11 line 8.  
12 5. By renumbering as necessary.

By KREIMAN of Davis

H-6114 FILED APRIL 12, 1994

LOST

## SENATE FILE 2319

H-6115

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 9, by striking lines 3 through 5 and  
5 inserting the following: "offense. If the comparison  
6 is negative the fingerprint card and other copies of  
7 the fingerprints taken shall be immediately destroyed.  
8 If the".  
9 2. Page 9, by striking lines 13 through 15 and  
10 inserting the following: "~~are taken. If the child is~~  
11 ~~not referred to the court~~ After notification by the  
12 child or the child's representative that the child has  
13 not had a delinquency petition filed against the child  
14 or has not entered into an informal adjustment  
15 agreement, the fingerprint card and copies of the  
16 fingerprints shall be immediately destroyed."

By KREIMAN of Davis

H-6115 FILED APRIL 12, 1994

ADOPTED



SENATE FILE 2319

H-6113

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 7, by inserting after line 4 the  
5 following:

6 "Sec. \_\_\_\_ . Section 232.44, subsection 1, Code  
7 1993, is amended by adding the following new  
8 unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. If the child is placed  
10 in a detention facility in a county other than the  
11 county in which the child resides or in which the  
12 delinquent act allegedly occurred but which is within  
13 the same judicial district, the hearing may take place  
14 in the county in which the detention facility is  
15 located and may take place by telephone conference  
16 call."

17 2. Page 9, line 31, by inserting after the word  
18 "notification" the following: "by the child's  
19 guardian ad litem or legal counsel".

20 3. Page 14, by inserting after line 4 the  
21 following:

22 "Sec. \_\_\_\_ . Section 726.6, subsections 2 and 3,  
23 Code 1993, are amended to read as follows:

24 2. a. A person who commits three or more acts of  
25 child endangerment resulting in serious injury to a  
26 child or minor is guilty of a class "B" felony.

27 b. Except as otherwise provided in paragraph  
28 "a", a person who commits child endangerment resulting  
29 in serious injury to a child or minor is guilty of a  
30 class "C" felony.

31 c. A person who commits three or more acts of  
32 child endangerment not resulting in serious injury to  
33 a child or minor is guilty of a class "C" felony.

34 3 d. Except as otherwise provided in paragraph  
35 "c", a person who commits child endangerment not  
36 resulting in serious injury to a child or minor is  
37 guilty of an aggravated misdemeanor."

38 4. By renumbering as necessary.

By BURKE of Marshall

H-6113 FILED APRIL 12, 1994

ADOPTED

4-12-94

SENATE FILE 2319

3-6108

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. By striking page 1, line 5 through page 2,  
5 line 12, and inserting the following:

6 "Section 1. Section 123.3, subsection 19, Code  
7 Supplement 1993, is amended to read as follows:

8 19. "Legal age" means nineteen twenty-one years of  
9 age or more.

10 Sec. \_\_\_\_ . Section 123.47, Code 1993, is amended to  
11 read as follows:

12 123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

13 A person shall not sell, give, or otherwise supply  
14 alcoholic liquor, wine, or beer to any person knowing  
15 or having reasonable cause to believe that person to  
16 be under the age of eighteen, and a person or persons  
17 under the age of eighteen shall not purchase or  
18 attempt to purchase, or individually or jointly have  
19 alcoholic liquor, wine, or beer in their possession or  
20 control; except in the case of liquor, wine, or beer  
21 given or dispensed to a person under the age of  
22 eighteen within a private home and with the knowledge,  
23 presence, and consent of the parent or guardian for  
24 beverage or medicinal purposes or as administered to  
25 the person by either a physician or dentist for  
26 medicinal purposes and except to the extent that a  
27 person under the age of eighteen may handle alcoholic  
28 beverages, wine, and beer during the regular course of  
29 the person's employment by a liquor control licensee,  
30 or wine or beer permittee under this chapter. A  
31 person, other than a licensee or permittee, who  
32 violates this section regarding the purchase of  
33 alcoholic liquor, wine, or beer shall pay a twenty-  
34 five dollar penalty.

35 Sec. \_\_\_\_ . Section 123.47A, subsection 1, Code  
36 1993, is amended to read as follows:

37 1. A person shall not sell, give, or otherwise  
38 supply alcoholic liquor, wine, or beer to any person  
39 knowing or having reasonable cause to believe that the  
40 person is age eighteen, nineteen, or twenty. A person  
41 age eighteen, nineteen, or twenty shall not purchase  
42 or possess alcoholic liquor, wine, or beer. However,  
43 a person age eighteen, nineteen, or twenty may possess  
44 alcoholic liquor, wine, or beer given to the person  
45 within a private home with the knowledge, presence,  
46 and consent of the person's parent or guardian, and a  
47 person age eighteen, nineteen, or twenty may handle  
48 alcoholic liquor, wine, and beer during the course of  
49 the person's employment by a liquor control licensee,  
50 or wine or beer permittee. A person, other than a

108

-1-

WITHDRAWN

WITHDRAWN

H-6108

Page 2

1 licensee or permittee, who commits a first offense  
 2 under this section commits a scheduled violation of  
 3 section 805.8, subsection 10. A person, other than a  
 4 licensee or permittee, who commits a second or  
 5 subsequent violation of this section, commits a simple  
 6 misdemeanor. A licensee or permittee who violates  
 7 this section with respect to a person who is age  
 8 nineteen or twenty is guilty of a simple misdemeanor  
 9 punishable by a fine of not more than fifty dollars.  
 10 The penalty provided under this section against a  
 11 licensee or permittee who violates this section with  
 12 respect to a person who is age nineteen or twenty is  
 13 the only penalty which shall be imposed against a  
 14 licensee or permittee who violates this section. A  
 15 licensee or permittee who violates this section with  
 16 respect to a person who is age eighteen commits a  
 17 simple misdemeanor, and is subject to the criminal and  
 18 civil penalties provided pursuant to sections 123.49  
 19 and 123.50 with respect to selling, giving, or  
 20 otherwise supplying alcoholic beverages, liquor, wine,  
 21 or beer to persons under legal age.

22 Sec. \_\_\_\_\_. Section 123.49, subsection 2, paragraph  
 23 h, Code 1993, is amended to read as follows:

24 h. Sell, give, or otherwise supply any alcoholic  
 25 beverage, wine, or beer to any person, knowing or  
 26 ~~having-reasonable-cause-to-believe-the-person-to-be~~  
 27 ~~failing to exercise reasonable care to ascertain~~  
 28 ~~whether the person is under legal age, or permit any~~  
 29 ~~person, knowing or having-reasonable-cause-to-believe~~  
 30 ~~the-person-to-be failing to exercise reasonable care~~  
 31 ~~to ascertain whether the person is under legal age, to~~  
 32 consume any alcoholic beverage, wine, or beer.

33 Sec. \_\_\_\_\_. Section 123.50, subsection 1, Code  
 34 Supplement 1993, is amended to read as follows:

35 1. Any person who violates any of the provisions  
 36 of section 123.49, except subsection 2, paragraph "h",  
 37 shall be guilty of a simple misdemeanor. A person who  
 38 violates section 123.49, subsection 2, paragraph "h",  
 39 commits a simple misdemeanor punishable as a scheduled  
 40 violation under section 805.8, subsection 10,  
 41 paragraph "b".

42 2. Page 14, by inserting after line 4 the  
 43 following:

44 "Sec. \_\_\_\_\_. Section 805.8, subsection 10, Code  
 45 Supplement 1993, is amended to read as follows:

46 10. ALCOHOLIC BEVERAGE VIOLATIONS.

47 a. For violations of section 123.47A, which  
 48 constitute first offenses as provided in that section,  
 49 the scheduled fine is fifteen dollars.

50 b. For violations of section 123.49, subsection 2,

H-6108

-2-

H-6108

Page 3

1 paragraph "h", the scheduled fine is one hundred  
 2 dollars."

3 3. By renumbering as necessary.

By KREIMAN of Davis

H-6108 FILED APRIL 11, 1994

WITHDRAWN  
 4-12-94

## SENATE FILE 2319

H-6107

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:

4 1. By striking page 1, line 49 through page 2,  
5 line 10 and inserting the following: "person or will  
6 endanger that person. The juvenile court officer  
7 shall notify the elementary or secondary school the  
8 person attends, if any, and the superintendent of the  
9 school district, the superintendent's designee, or the  
10 authorities in charge of the nonpublic school of the  
11 person's adjudication or entering into an informal  
12 adjustment agreement for the violation of section  
13 123.47. A reasonable attempt to".

14 2. Page 5, by striking lines 25 through 36 and  
15 inserting the following: "the person or will endanger  
16 that person. The juvenile court officer shall notify  
17 the elementary or secondary school the person attends,  
18 if any, and the superintendent of the school district,  
19 the superintendent's designee, or the authorities in  
20 charge of the nonpublic school of the person's  
21 adjudication or entering into an informal adjustment  
22 agreement for possession of a controlled substance,  
23 counterfeit substance, or simulated controlled  
24 substance in violation of this chapter. A reasonable  
25 attempt to notify the person".

26 3. Page 6, by striking lines 36 through 44.

27 4. Page 8, by striking lines 2 through 13 and  
28 inserting the following: "amended by adding the  
29 following new subsection:"

30 5. By renumbering as necessary.

By MCKINNEY of Dallas

H-6107 FILED APRIL 11, 1994

*Lost 4-12-94  
(P. 1443)*

## SENATE FILE 2319

H-6106

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 7, by striking lines 5 through 26 and  
5 inserting the following:

6 "Sec. \_\_\_\_ . Section 232.45A, subsection 2, Code  
7 1993, is amended to read as follows:

8 2. Once a child sixteen years of age or older has  
9 been waived to and convicted of an aggravated  
10 misdemeanor committed against a person or a forcible  
11 felony or a felony violation of section 124.401 or  
12 chapter 707 by the district court, all criminal  
13 proceedings against the child for any forcible-felony  
14 or-a-felony-violation-of-section-124-401-or-chapter  
15 707 aggravated misdemeanor or felony occurring  
16 subsequent to the date of the conviction of the child  
17 shall begin in district court, notwithstanding  
18 sections 232.8 and 232.45. A copy of the findings  
19 required by section 232.45, subsection 8, shall be  
20 made a part of the record in the district court  
21 proceedings.

22 Sec. \_\_\_\_ . Section 232.45A, subsection 3, Code  
23 1993, is amended to read as follows:

24 3. If proceedings against a child for an  
25 aggravated misdemeanor committed against a person or a  
26 forcible felony or a felony violation of section  
27 124.401 or chapter 707 who has previously been waived  
28 to and convicted of such an offense by the district  
29 court are mistakenly begun in the juvenile court, the  
30 matter shall be transferred to district court upon the  
31 discovery of the prior waiver and conviction,  
32 notwithstanding sections 232.8 and 232.45."

33 2. By renumbering as necessary.

By KREIMAN of Davis

H-6106 FILED APRIL 11, 1994

*Withdrawn  
4, 12-94  
(P. 1453)*

## SENATE FILE 2319

H-6103

- 1 Amend the amendment, H-6057, to Senate File 2319,
- 2 as amended, passed, and reprinted by the Senate as
- 3 follows:
- 4 1. Page 6, by striking lines 8 through 28.
- 5 2. By renumbering as necessary.

By MCKINNEY of Dallas

H-6103 FILED APRIL 11, 1994

*Lost 4-12-94 (p.1452)*

## SENATE FILE 2319

H-6104

- 1 Amend the amendment, H-6057, to Senate File 2319,
- 2 as amended, passed, and reprinted by the Senate as
- 3 follows:
- 4 1. Page 8, lines 31 and 32, by striking the words
- 5 "~~constituting a felony~~ other than a simple
- 6 misdemeanor" and inserting the following:
- 7 "constituting an aggravated misdemeanor or a felony".

By MCKINNEY of Dallas

H-6104 FILED APRIL 11, 1994

*Lost 4/12/94*

## SENATE FILE 2319

H-6105

- 1 Amend the amendment, H-6057, to Senate File 2319,
- 2 as amended, passed, and reprinted by the Senate, as
- 3 follows:
- 4 1. Page 8, by striking lines 32 through 38 and
- 5 inserting the following: "simple misdemeanor."
- 6 However, fingerprint and photograph files of a child
- 7 who enters into an informal adjustment or consent
- 8 decree shall be retained only if the child is notified
- 9 at the time of entering into the informal adjustment
- 10 or consent decree that the files will be permanently
- 11 retained by the criminal justice agency. The criminal
- 12 justice".

By MCKINNEY of Dallas

H-6105 FILED APRIL 11, 1994

*Lost 4-12-94  
(p.1463)*

## SENATE FILE 2319

H-6100

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 6, by striking lines 8 through 28.  
5 2. By renumbering as necessary.

By KREIMAN of Davis

H-6100 FILED APRIL 11, 1994

WITHDRAWN

4-12-94

## SENATE FILE 2319

H-6101

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 8, line 32, by inserting after the word  
5 "simple" the following: "or serious".  
6 2. Page 9, by striking lines 45 through 47 and  
7 inserting the following: "been adjudicated-a  
8 delinquent-or-convicted-of-committing-an-aggravated  
9 misdemeanor-or-a-felony-after-reaching-sixteen-years  
10 of-age convicted of a public offense."

By KREIMAN of Davis

H-6101 FILED APRIL 11, 1994

WITHDRAWN

4-12-94

## SENATE FILE 2319

H-6102

- 1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 9, by striking lines 16 through 22 and  
5 inserting the following:  
6 "4. Fingerprint and photograph files of children  
7 shall be kept separate from those of adults. Copies  
8 of fingerprints and photographs of a child shall not  
9 be placed in any data storage system established and  
10 maintained by the department of public safety pursuant  
11 to chapter 692, or in any federal depository for  
12 fingerprints."  
13 2. Page 9, line 23, by striking the figures "5 4"  
14 and inserting the following: "5".  
15 3. Page 9, line 29, by striking the figures "6 5"  
16 and inserting the following: "6".

By MCKINNEY of Dallas

H-6102 FILED APRIL 11, 1994

WITHDRAWN

4/12/94

## SENATE FILE 2319

H-6094

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 7, by inserting after line 50 the  
5 following:

6 "Sec. \_\_\_\_ . Section 232.141, subsection 8, Code  
7 Supplement 1993, is amended to read as follows:

8 8. This subsection applies only to placements in a  
9 juvenile shelter care home which is publicly owned,  
10 operated as a county or multicounty shelter care home,  
11 organized under a chapter 28E agreement, or operated  
12 by a private juvenile shelter care home. If the  
13 actual and allowable costs of a child's shelter care  
14 placement exceed the amount the department is  
15 authorized to pay in accordance with law and  
16 administrative rule, the unpaid costs may be recovered  
17 from the ~~child's county of legal settlement~~ state.  
18 However, the maximum amount of the unpaid costs which  
19 may be recovered under this subsection is limited to  
20 the difference between the amount the department is  
21 authorized to pay and the statewide average of the  
22 actual and allowable rates in effect in May of the  
23 preceding fiscal year for reimbursement of juvenile  
24 shelter care homes. In no case shall the home be  
25 reimbursed for more than the home's actual and  
26 allowable costs. The unpaid costs are payable  
27 pursuant to filing of verified claims against the  
28 ~~county of legal settlement~~ state, through the  
29 department. A detailed statement of the facts upon  
30 which a claim is based shall accompany the claim. Any  
31 ~~dispute between counties arising from filings of~~  
32 ~~claims pursuant to this subsection shall be settled in~~  
33 ~~the manner provided to determine legal settlement in~~  
34 ~~section 230.12."~~

35 2. Page 12, by inserting after line 41 the  
36 following:

37 "Sec. \_\_\_\_ . NEW SECTION. 709C.1 SEXUALLY VIOLENT  
38 PREDATOR ACT.

39 This chapter shall be known as the "Sexually  
40 Violent Predator Act".

41 Sec. \_\_\_\_ . NEW SECTION. 709C.2 DEFINITIONS.

42 As used in this chapter, unless the context clearly  
43 requires otherwise:

44 1. "Mental abnormality" means a congenital or  
45 acquired condition affecting the emotional or  
46 volitional capacity which predisposes the person to  
47 the commission of criminal sexual acts in a degree  
48 constituting the person a menace to the health and  
49 safety of others.

50 2. "Predatory" means acts directed towards

H-6094



H-6094

Page 2

1 strangers or individuals with whom a relationship has  
2 been established or promoted for the primary purpose  
3 of victimization.

4 3. "Sexually violent offense" means an act which  
5 is at least one of the following:

6 a. A public offense under section 709.2, 709.3,  
7 709.4, 709.8, 709.11, 709.12, or 709.14.

8 b. Murder in the first degree or second degree  
9 under section 707.2 or 707.3, assault under section  
10 708.1, domestic abuse assault under section 708.2A,  
11 kidnapping in the first degree or in the second degree  
12 under section 710.2 or 710.3, burglary or attempted  
13 burglary in the first degree under section 713.3 or  
14 713.4, which is determined beyond a reasonable doubt  
15 at the time of sentencing or during civil commitment  
16 proceedings subsequent to the offense to have been  
17 sexually motivated.

18 c. A felony offense under federal law or the law  
19 of another state which is equivalent to one of the  
20 offenses listed in paragraph "a" or "b".

21 d. A violation of chapter 705 or 706 regarding an  
22 offense listed in paragraph "a", "b", or "c".

23 4. "Sexually violent predator" means a person who  
24 has been convicted of or charged with a sexually  
25 violent offense and who suffers from a mental  
26 abnormality or personality disorder which makes the  
27 person likely to engage in predatory acts of sexual  
28 violence.

29 Sec. \_\_\_\_ . NEW SECTION. 709C.3 SEXUALLY VIOLENT  
30 PREDATOR PETITION.

31 1. The county attorney or the attorney general at  
32 the request of the county attorney, may file a  
33 petition alleging that a person is a sexually violent  
34 predator. The petition shall state sufficient facts  
35 to support the allegation.

36 2. A petition may be filed in the following  
37 circumstances:

38 a. The person has been convicted of, plead guilty  
39 to, or been adjudicated delinquent for committing a  
40 sexually violent offense.

41 b. The person has been found not guilty of a  
42 sexually violent offense by reason of insanity, or has  
43 been found incompetent to stand trial for allegedly  
44 committing a sexually violent offense.

45 c. The person is within ninety days of release  
46 from a facility to which the person was committed  
47 pursuant to the determination made in either paragraph  
48 "a" or "b".

49 Sec. \_\_\_\_ . NEW SECTION. 709C.4 JUDICIAL  
50 DETERMINATION -- TRANSFER FOR EVALUATION.

H-6094

-2-

H-6094

Page 3

1 Upon the filing of a petition under section 709C.3,  
2 if the court determines that probable cause exists to  
3 believe that the person named in the petition is a  
4 sexually violent predator the court shall transfer a  
5 person to an appropriate facility for evaluation as to  
6 whether the person is a sexually violent predator.  
7 The evaluation shall be conducted by a person deemed  
8 to be professionally qualified to conduct the  
9 examination pursuant to rules adopted by the  
10 department of corrections in consultation with the  
11 department of human services and the criminal and  
12 juvenile justice planning division of the department  
13 of human rights.

14 Sec. \_\_\_\_ . NEW SECTION. 709C.5 TRIAL -- RIGHTS OF  
15 PARTIES.

16 Not later than forty-five days after the filing of  
17 a petition pursuant to section 709C.3, the court shall  
18 conduct a trial to determine whether the person is a  
19 sexually violent predator. At all stages of the  
20 proceedings under this chapter, any person subject to  
21 this chapter shall be entitled to the assistance of  
22 counsel, and if the person is indigent, the court  
23 shall appoint counsel to assist the person. If a  
24 person is subjected to an examination under this  
25 chapter, the person may retain experts or professional  
26 persons to perform an examination on the person's  
27 behalf. The person may be examined by a qualified  
28 expert or professional person of the person's  
29 choosing, and the expert or professional shall have  
30 reasonable access to the person for the purpose of the  
31 examination, as well as to all relevant medical and  
32 psychological records and reports. In the case of a  
33 person who is indigent, the court shall, upon the  
34 person's request, assist the person in obtaining an  
35 expert or professional person to perform an  
36 examination or participate in the trial on the  
37 person's behalf. The person, the county attorney or  
38 the attorney general, or the judge shall have the  
39 right to demand that the trial be before a jury, if  
40 the person is an adult or a juvenile who has been  
41 waived to the district court. If no demand is made,  
42 or if the person is a juvenile who has not been waived  
43 to the district court, the trial shall be to the court  
44 or the juvenile court as applicable.

45 Sec. \_\_\_\_ . NEW SECTION. 709C.6 TRIAL -- DETER-  
46 MINATION -- COMMITMENT PROCEDURES.

47 1. The court or jury shall determine whether,  
48 beyond a reasonable doubt, the person is a sexually  
49 violent predator. If the state alleges that the prior  
50 sexually violent offense that forms the basis for the

H-6094

-3-

H-6094

Page 4

1 petition for commitment was an act that was sexually  
2 motivated, the state shall prove beyond a reasonable  
3 doubt that the alleged sexually violent act was  
4 sexually motivated. If the court or jury determines  
5 that the person is a sexually violent predator, the  
6 person shall be committed to the custody of the  
7 department of human services in a secure facility for  
8 control, care, and treatment until such time as the  
9 person's mental abnormality of personality disorder  
10 has so changed that the person is safe to be at large.  
11 This control, care, and treatment shall be provided at  
12 a facility operated by the department of human  
13 services, however, adults and juveniles shall not be  
14 sent to the same facility. If the court or jury does  
15 not find beyond a reasonable doubt that the person is  
16 a sexually violent predator, the court shall order the  
17 person to be released in accordance with the terms of  
18 the person's sentence.

19 2. If the person charged with a sexually violent  
20 offense has been found incompetent to stand trial, and  
21 is about to or has been released and the person's  
22 commitment is sought pursuant to subsection 1, the  
23 court shall first hear evidence and determine whether  
24 the person did commit the act or acts charged if the  
25 court did not enter a finding prior to dismissal due  
26 to incompetence that the person committed the act or  
27 acts charged. The hearing on this issue shall comply  
28 with all the procedures specified in this section. In  
29 addition, the rules of evidence applicable in criminal  
30 cases shall apply, and all constitutional rights  
31 available to defendants at criminal trials, other than  
32 the right not to be tried while incompetent, shall  
33 apply. After hearing evidence on this issue, the  
34 court shall make specific findings on whether the  
35 person did commit the act charged, the extent to which  
36 the person's incompetence or developmental disability  
37 affected the outcome of the hearing, including its  
38 effect on the person's ability to consult with and  
39 assist counsel and to testify on the person's own  
40 behalf, the extent to which the evidence could be  
41 reconstructed without the assistance of the person,  
42 and the strength of the prosecution's case. If, after  
43 the conclusion of the hearing on the issue, the court  
44 finds beyond a reasonable doubt that the person did  
45 commit the act charged, the court shall enter a final  
46 order, appealable by the person, on that issue, and  
47 may proceed to consider whether the person should be  
48 committed pursuant to this section.

49 Sec. . NEW SECTION. 709C.7 ANNUAL  
50 EXAMINATIONS.

H-6094

-4-

H-6094

Page 5

1 Each person committed under this chapter shall have  
2 a current examination of the person's mental condition  
3 made at least once every year. The person may retain,  
4 or if the person is indigent and so requests, the  
5 court may appoint, a qualified expert or a  
6 professional person to examine the person, and the  
7 expert or professional person shall have access to all  
8 records concerning the person. The periodic report  
9 shall be provided to the court that committed the  
10 person under this chapter.

11 Sec.     . NEW SECTION. 709C.8 PETITION FOR  
12 RELEASE -- PROCEDURES.

13 1. If the director of the department of human  
14 services determines that the person's mental  
15 abnormality or personality disorder has so changed  
16 that the person is not likely to engage in predatory  
17 acts of sexual violence if released, the director  
18 shall authorize the person to petition the court for  
19 release. The petition shall be served upon the court  
20 and the county attorney. The court, upon receipt of  
21 the petition for release, shall order a hearing on the  
22 petition to be held not later than forty-five days  
23 after the date of service of the petition. The county  
24 attorney or the attorney general, if requested by the  
25 county, shall represent the state, and shall have the  
26 right to have the petitioner examined by an expert or  
27 professional person of county attorney's or attorney  
28 general's choice. The hearing shall be before a jury  
29 if demanded by either the petitioner or the state's  
30 counsel. The burden of proof shall be upon the county  
31 attorney or attorney general to show beyond a  
32 reasonable doubt that the petitioner's mental  
33 abnormality or personality disorder remains such that  
34 the petitioner is not safe to be at large and that if  
35 discharged is likely to engage in predatory acts of  
36 sexual violence.

37 2. Nothing contained in this chapter shall  
38 prohibit the person from otherwise petitioning the  
39 court for discharge without the approval of the  
40 director of the department of human services. The  
41 director shall provide the committed person with an  
42 annual written notice of the person's right to  
43 petition the court for release over the director's  
44 objection. The notice shall contain a waiver of  
45 rights. The director shall forward the notice and  
46 waiver form to the court with the annual report. If  
47 the person does not affirmatively waive the right to  
48 petition, the court shall set a show cause hearing to  
49 determine whether facts exist that warrant a hearing  
50 on whether the person's condition has so changed that

H-6094

-5-

**H-6094**

Page 6

1 the person is safe to be at large. The committed  
2 person shall have a right to have an attorney  
3 represent the person at the show cause hearing but the  
4 person is not entitled to be present at the show cause  
5 hearing. If the court at the show cause hearing  
6 determines that probable cause exists to believe that  
7 the person's mental abnormality or personality  
8 disorder has so changed that the person is safe to be  
9 at large and is not likely to engage in predatory acts  
10 of sexual violence if discharged, the court shall set  
11 a hearing on the issue. At the hearing the committed  
12 person shall be entitled to be present and to the  
13 benefit of all constitutional protections that were  
14 afforded to the person at the initial commitment  
15 proceeding. The county attorney or attorney general  
16 shall represent the state and shall have a right to  
17 request a jury trial and to have the committed person  
18 evaluated by experts chosen by the state. The  
19 committed person shall also have the right to have  
20 experts evaluate the person on the person's behalf and  
21 the court shall appoint an expert if the person is  
22 indigent and requests an appointment. The burden of  
23 proof at the hearing shall be upon the state to prove  
24 beyond a reasonable doubt that the committed person's  
25 mental abnormality or personality disorder remains  
26 such that the person is not safe to be at large and if  
27 released is likely to engage in predatory acts of  
28 sexual violence.

29 Sec. \_\_\_\_ . NEW SECTION. 709C.9 SUBSEQUENT  
30 PETITIONS.

31 Nothing in this chapter shall prohibit a person  
32 from filing a petition for discharge pursuant to this  
33 chapter. However, if a person has previously filed a  
34 petition for discharge without the approval of the  
35 director of the department of human services and the  
36 court has determined, either upon review of the  
37 petition or following a hearing, that the petitioner's  
38 petition was frivolous or that the petitioner's  
39 condition had not so changed that the petitioner was  
40 safe to be at large, the court shall deny the  
41 subsequent petition unless the petition contains facts  
42 upon which a court could find that the condition of  
43 the petitioner has so changed that a hearing is  
44 warranted. Upon receipt of a first or subsequent  
45 petition from a committed person without the  
46 director's approval, the court shall review the  
47 petition and determine if the petition is based upon  
48 frivolous grounds and if so shall deny the petition  
49 without a hearing.

50 Sec. \_\_\_\_ . NEW SECTION. 709C.10 RELEASE OF

**H-6094**

H-6094

Page 7

1 INFORMATION AUTHORIZED.

2 Notwithstanding any other provision to the  
3 contrary, the director of the department of human  
4 services is authorized to release relevant information  
5 that is necessary to protect the public, concerning a  
6 specific sexually violent predator committed under  
7 this chapter."

8 3. By renumbering as necessary.

By DICKINSON of Jackson

H-6094 FILED APRIL 11, 1994

*Not Hermone 4-12-94*

## SENATE FILE 2319

H-6098

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 9, by striking lines 3 through 7 and  
5 inserting the following: "offense. If the comparison  
6 is negative the fingerprint card and other copies of  
7 the fingerprints taken shall be immediately destroyed.  
8 If the comparison is positive and the child is  
9 referred to the court, the fingerprint card and other  
10 copies of".

11 2. Page 9, by striking lines 13 through 15 and  
12 inserting the following: "are taken. If the child is  
13 not referred to the court, the fingerprint card and  
14 copies of the fingerprints shall be immediately  
15 destroyed."

By MCKINNEY of Dallas

H-6098 FILED APRIL 11, 1994

*Out of Order 4/12/94 (p. 1463)*

## SENATE FILE 2319

H-6099

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 7, by inserting before line 27 the  
5 following:

6 "Sec. \_\_\_\_ . Section 232.52, subsection 2, paragraph  
7 c, Code 1993, is amended by adding the following new  
8 unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. A parent or guardian may  
10 be required by the juvenile court to participate in  
11 educational or treatment programs as part of a  
12 probation plan if the court determines it to be in the  
13 best interest of the child. A parent or guardian who  
14 does not participate in the probation plan when  
15 required to do so by the court may be held in  
16 contempt."

17 2. By renumbering as necessary.

By KREIMAN as Davis

H-6099 FILED APRIL 11, 1994

*Lost 4-12-94  
(p. 153)*

SENATE FILE 2319

H-6093

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

A 4 1. Page 2, by striking lines 13 through 26.

5 2. Page 6, by inserting after line 44 the  
6 following:

7 "Sec. \_\_\_\_ . Section 232.29, subsection 2, Code  
8 1993, is amended to read as follows:

9 2. An informal adjustment agreement may prohibit a  
10 child from driving a motor vehicle for a specified  
11 period of time or under specific circumstances,  
12 require the child to perform a work assignment of  
13 value to the state or to the public, or require the  
14 child to make restitution consisting of a monetary  
15 payment to the victim or a work assignment directly of  
16 value to the victim."

17 3. Page 7, by inserting after line 26 the  
18 following:

19 "Sec. \_\_\_\_ . Section 232.46, subsection 1, Code  
20 1993, is amended to read as follows:

21 1. At any time after the filing of a petition and  
22 prior to entry of an order of adjudication pursuant to  
23 section 232.47, the court may suspend the proceedings  
24 on motion of the county attorney or the child's  
25 counsel, enter a consent decree, and continue the case  
26 under terms and conditions established by the court.  
27 These terms and conditions may include prohibiting a  
28 child from driving a motor vehicle for a specified  
29 period of time or under specific circumstances, or the  
30 supervision of the child by a juvenile court officer  
31 or other agency or person designated by the court, and  
32 may include the requirement that the child perform a  
33 work assignment of value to the state or to the public  
34 or make restitution consisting of a monetary payment  
35 to the victim or a work assignment directly of value  
36 to the victim.

B 37 Sec. \_\_\_\_ . Section 232.52, subsection 2, paragraph  
38 a, Code 1993, is amended by adding the following new  
39 subparagraph:

40 NEW SUBPARAGRAPH. (4) That the child shall not  
41 operate a motor vehicle for a specified period of time  
42 or under specified condition."

A 43 4. Page 11, by striking lines 23 through 41.

B 44 5. By renumbering as necessary.

By KREIMAN of Davis

H-6093 FILED APRIL 11, 1994

*A. Withdrawn 4-12-94*  
*B. Adopted 4-12-94 (P. 1452)*

## SENATE FILE 2319

H-6086

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 9, by striking lines 3 through 5 and  
5 inserting the following: "offense. If the comparison  
6 is negative the fingerprint card and other copies of  
7 the fingerprints taken shall be immediately destroyed.  
8 If the".

9 2. Page 9, by striking lines 13 through 15 and  
10 inserting the following: "are taken. If the child is  
11 not referred to the court, the fingerprint card and  
12 copies of the fingerprints shall be immediately  
13 destroyed."

By KREIMAN of Davis

H-6086 FILED APRIL 11, 1994

WITHDRAWN  
4-12-94

SENATE FILE 2319

H-6087

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 8, line 5, by striking the word  
5 "citation" and inserting the following: "an informal  
6 adjustment".

7 2. Page 8, line 11, by striking the word  
8 "citations" and inserting the following: "informal  
9 adjustments".

By KREIMAN of Davis

H-6087 FILED APRIL 11, 1994

WITHDRAWN  
4-12-94

SENATE FILE 2319

H-6088

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. By striking page 10, line 48 through page 11,  
5 line 8.

6 2. Page 19, by striking lines 30 through 40.

7 3. By renumbering as necessary.

By KREIMAN of Davis

H-6088 FILED APRIL 11, 1994

Lost 4/12/94  
(P. 1464)



## SENATE FILE 2319

H-6089

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

- 4 1. By striking page 1, line 33, through page 2,  
5 line 12.  
6 2. Page 5, by striking lines 9 through 38.  
7 3. Page 6, by striking lines 36 through 44.  
8 4. By renumbering as necessary.

By KREIMAN of Davis

H-6089 FILED APRIL 11, 1994

*Lost 4/12/94 (P. 1445)*

## SENATE FILE 2319

H-6090

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

- 4 1. Page 19, by striking lines 19 through 29.  
5 2. By renumbering as necessary.

By KREIMAN of Davis

H-6090 FILED APRIL 11, 1994

**WITHDRAWN**  
*4-12-94*

## SENATE FILE 2319

H-6091

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

- 4 1. Page 1, line 19, by striking the figure  
5 "362,500" and inserting the following: "400,000".

By KREIMAN of Davis

H-6091 FILED APRIL 11, 1994

*Lost 4/12/94 (P. 1439)*

## SENATE FILE 2319

H-6092

1 Amend the amendment, H-6057, to Senate File 2319,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

- 4 1. Page 8, by striking lines 32 through 38 and  
5 inserting the following: "simple misdemeanor.  
6 However, fingerprint and photograph files of a child  
7 who enters into an informal adjustment or consent  
8 decree shall be retained only if the child is notified  
9 at the time of entering into the informal adjustment  
10 or consent decree that the files will be permanently  
11 retained by the criminal justice agency. The criminal  
12 justice".

By KREIMAN of Davis

H-6092 FILED APRIL 11, 1994

**WITHDRAWN**  
*4-12-94*

SENATE FILE 2319

H-6057

1 Amend Senate File 2319, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. JUVENILE DETENTION HOMES -- ADDITIONAL  
6 APPROPRIATION. There is appropriated from the general  
7 fund of the state to the department of human services  
8 for the fiscal year beginning July 1, 1994, and ending  
9 June 30, 1995, in addition to other appropriations  
10 made to the department for that fiscal year, the  
11 following amount, or so much thereof as is necessary,  
12 to be used for the purpose designated:

13 For additional reimbursement of counties for  
14 juvenile detention homes in accordance with the  
15 provisions of this section, and in order to effectuate  
16 the purposes of this Act pertaining to the detention  
17 of children who habitually and substantially violate  
18 the conditions of probation:

19 ..... \$ 362,500

20 If the funds designated in this section, in  
21 addition to any other appropriation to the department  
22 of human services for reimbursement of counties for  
23 juvenile detention homes in the fiscal year beginning  
24 July 1, 1994, are insufficient to pay ten percent of  
25 the total cost of the homes, notwithstanding section  
26 232.142, subsection 3, the state payment shall be less  
27 than ten percent and the department shall prorate the  
28 state payment as necessary to keep expenditures within  
29 the funds designated in this section and in any other  
30 provision appropriating moneys to the department for  
31 reimbursement of counties for juvenile detention homes  
32 in the same fiscal year.

33 Sec. 2. Section 123.47B, Code 1993, is amended to  
34 read as follows:

35 123.47B PARENTAL AND SCHOOL NOTIFICATION --  
36 PERSONS UNDER EIGHTEEN YEARS OF AGE.

37 A peace officer shall make a reasonable effort to  
38 identify a person under the age of eighteen discovered  
39 to be in possession of alcoholic liquor, wine, or beer  
40 in violation of section 123.47 and if the person is  
41 not referred to juvenile court, the law enforcement  
42 agency of which the peace officer is an employee shall  
43 make a reasonable attempt to notify the person's  
44 custodial parent or legal guardian of such possession,  
45 whether or not the person is arrested or a citation is  
46 issued pursuant to section 805.16, unless the officer  
47 has reasonable grounds to believe that such  
48 notification is not in the best interests of the  
49 person or will endanger that person. If the person is  
50 taken into custody, the peace officer may make a

H-6057

H-6057

Page 2

1 reasonable effort to identify the elementary or  
2 secondary school the person attends, if any, and to  
3 notify the superintendent of the school district, the  
4 superintendent's designee, or the authorities in  
5 charge of the nonpublic school of the taking into  
6 custody. A juvenile court officer may also notify the  
7 superintendent of the school district, the  
8 superintendent's designee, or the authorities in  
9 charge of the nonpublic school which the child attends  
10 of the taking into custody. A reasonable attempt to  
11 notify the person includes but is not limited to a  
12 telephone call or notice by first class mail.

13 Sec. 3. Section 123.90, Code 1993, is amended by  
14 adding the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. In addition to any other  
16 penalties provided in this chapter, a person under the  
17 age of eighteen who is adjudicated delinquent for  
18 violating section 123.47 shall surrender all motor  
19 vehicle licenses or permits, which the court shall  
20 forward to the state department of transportation.  
21 The license shall be suspended by the department for  
22 ninety days for the first violation, one hundred  
23 eighty days for the second violation, and one year for  
24 third and subsequent violations, and the person shall  
25 not be eligible for a special minor's license under  
26 section 321.194.

27 Sec. 4. Section 124.401, subsection 1, Code 1993,  
28 is amended by adding the following new paragraph:

29 NEW PARAGRAPH. g. A person who violates this  
30 subsection by bringing, or causing to be brought, into  
31 this state a controlled substance, counterfeit  
32 substance, or a simulated controlled substance shall  
33 be sentenced to two times the term otherwise imposed  
34 by law, and no such judgment, sentence, or part  
35 thereof shall be deferred or suspended.

36 Sec. 5. Section 124.401, subsection 3, Code 1993,  
37 is amended to read as follows:

38 3. a. It is unlawful for any person knowingly or  
39 intentionally to possess a controlled substance, a  
40 counterfeit substance, or a simulated controlled  
41 substance, unless such substance was obtained directly  
42 from, or pursuant to, a valid prescription or order of  
43 a practitioner while acting in the course of the  
44 practitioner's professional practice, or except as  
45 otherwise authorized by this chapter. Any Except as  
46 otherwise provided in paragraph "b", any person who  
47 violates this subsection is guilty of a serious  
48 misdemeanor. If the controlled substance, counterfeit  
49 substance, or simulated controlled substance is  
50 marijuana, the punishment shall be by imprisonment in

H-6057

-2-

H-6057

Page 3

1 the county jail for not more than six months or by a  
2 fine of not more than one thousand dollars, or by both  
3 such fine and imprisonment.

4 b. Violation of this subsection with respect to  
5 the following controlled substances, counterfeit  
6 substances, or simulated controlled substances is a  
7 class "D" felony:

8 (1) A mixture or substance containing heroin.

9 (2) Coca leaves, except coca leaves and extracts  
10 of coca leaves from which cocaine, ecgonine, and  
11 derivatives of ecgonine or their salts have been  
12 removed.

13 (3) Cocaine, cocaine base, cocaine salts, optical  
14 and geometric isomers, and salts of isomers.

15 (4) Ecgonine, its derivatives, their salts,  
16 isomers, and salts of isomers.

17 (5) A mixture or substance containing a detectable  
18 amount of phencyclidine (PCP).

19 (6) A mixture or substance containing a detectable  
20 amount of lysergic acid diethylamide (LSD).

21 (7) A mixture or substance containing a detectable  
22 amount of methamphetamine.

23 (8) Any other controlled substance, counterfeit  
24 substance, or simulated controlled substance  
25 classified in schedule I or II, except marijuana.

26 4. All or any part of a sentence imposed pursuant  
27 to this section may be suspended and the person placed  
28 upon probation upon such terms and conditions as the  
29 court may impose including the active participation by  
30 such person in a drug treatment, rehabilitation or  
31 education program approved by the court.

32 Sec. 6. Section 124.401A, Code 1993, is amended to  
33 read as follows:

34 124.401A ENHANCED PENALTY FOR DISTRIBUTION TO  
35 PERSONS ON CERTAIN REAL PROPERTY.

36 In addition to any other penalties provided in this  
37 chapter, a person who is eighteen years of age or  
38 older who unlawfully distributes or possesses with  
39 intent to distribute a substance or counterfeit  
40 substance listed in schedule I, or II which-is-a  
41 narcotic-or-ecaine, or III, or a simulated controlled  
42 substance represented to be a narcotic-or-ecaine  
43 controlled substance classified in schedule I, or II,  
44 or III, to another person who is eighteen years of age  
45 or older in or on, or within one thousand feet of the  
46 real property comprising a public or private  
47 elementary or secondary school, or in or on the real  
48 property comprising a public park, may, at the judge's  
49 discretion, be sentenced up to an additional term of  
50 confinement of five years.

H-6057

-3-

H-6057

Page 4

1 Sec. 7. Section 124.406, subsection 1, paragraphs  
2 a and b, Code 1993, are amended to read as follows:

3 a. Unlawfully distributes or possesses with intent  
4 to distribute a substance listed in schedule I or II,  
5 which-is-a-narcotic-or-cocaine, to a person under  
6 eighteen years of age commits a class "B" felony and  
7 shall serve a minimum term of confinement of five  
8 years. However, if the substance was distributed in  
9 or on, or within one thousand feet of, the real  
10 property comprising a public or private elementary or  
11 secondary school, or in or on the real property  
12 comprising a public park, the person shall serve a  
13 minimum term of confinement of ten years.

14 b. Unlawfully distributes or possesses with the  
15 intent to distribute a controlled substance other-than  
16 a-narcotic-or-cocaine listed in schedule I, II, or III  
17 to a person under eighteen years of age who is at  
18 least three years younger than the violator commits a  
19 class "C" felony.

20 Sec. 8. Section 124.406, subsection 2, paragraphs  
21 a and b, Code 1993, are amended to read as follows:

22 a. Unlawfully distributes or possesses with the  
23 intent to distribute a counterfeit substance listed in  
24 schedule I or II which-is-a-narcotic-or-cocaine, or a  
25 simulated controlled substance represented to be a  
26 narcotic-or-cocaine substance classified in schedule I  
27 or II, to a person under eighteen years of age commits  
28 a class "B" felony. However, if the substance was  
29 distributed in or on, or within one thousand feet of,  
30 the real property comprising a public or private  
31 elementary or secondary school, or in or on the real  
32 property comprising a public park, the person shall  
33 serve a minimum term of confinement of ten years.

34 b. Unlawfully distributes or possesses with intent  
35 to distribute a counterfeit substance other-than-a  
36 narcotic-or-cocaine listed in schedule I, II, or III,  
37 or a simulated controlled substance represented to be  
38 any substance listed in schedule I, II, or III, to a  
39 person under eighteen years of age who is at least  
40 three years younger than the violator commits a class  
41 "C" felony.

42 Sec. 9. Section 124.406, Code 1993, is amended by  
43 adding the following new subsection:

44 NEW SUBSECTION. 4. It is unlawful for a person  
45 who is eighteen years of age or older to act with,  
46 enter into a common scheme or design with, conspire  
47 with, recruit or use a person under the age of  
48 eighteen for the purpose of delivering or  
49 manufacturing a controlled substance. A person who  
50 violates this subsection with respect to a controlled

H-6057

-4-

H-6057

Page 5

1 substance classified in schedule I, II, III, IV, or V  
2 is guilty of a class "B" felony, and shall and must  
3 serve a minimum term of confinement of five years.  
4 The court shall not defer or suspend any portion of  
5 the mandatory minimum term of confinement, and shall  
6 not impose a fine in lieu of the mandatory minimum  
7 term of confinement, although a fine may be imposed in  
8 addition to a term of confinement.

9 Sec. 10. Section 124.415, Code 1993, is amended to  
10 read as follows:

11 124.415 PARENTAL AND SCHOOL NOTIFICATION --  
12 PERSONS UNDER EIGHTEEN YEARS OF AGE.

13 A peace officer shall make a reasonable effort to  
14 identify a person under the age of eighteen discovered  
15 to be in possession of a controlled substance,  
16 counterfeit substance, or simulated controlled  
17 substance in violation of this chapter, and if the  
18 person is not referred to juvenile court the law  
19 enforcement agency of which the peace officer is an  
20 employee shall make a reasonable attempt to notify the  
21 person's custodial parent or legal guardian of such  
22 possession, whether or not the person is arrested,  
23 unless the officer has reasonable grounds to believe  
24 that such notification is not in the best interests of  
25 the person or will endanger that person. If the  
26 person is taken into custody, the peace officer may  
27 make a reasonable effort to identify the elementary or  
28 secondary school the person attends, if any, and to  
29 notify the superintendent of the school district, the  
30 superintendent's designee, or the authorities in  
31 charge of the nonpublic school of the taking into  
32 custody. A juvenile court officer may also notify the  
33 superintendent of the school district, the  
34 superintendent's designee, or the authorities in  
35 charge of the nonpublic school of the taking into  
36 custody. A reasonable attempt to notify the person  
37 includes but is not limited to a telephone call or  
38 notice by first class mail.

39 Sec. 11. Section 232.2, subsection 6, Code  
40 Supplement 1993, is amended by adding the following  
41 new paragraph:

42 NEW PARAGRAPH. p. Who is a truant as defined in  
43 section 299.8. However, this provision shall not  
44 apply to a child attending a nonaccredited nonpublic  
45 school or receiving competent private instruction.

46 Sec. 12. Section 232.2, subsection 12, Code  
47 Supplement 1993, is amended by adding the following  
48 new paragraph:

49 NEW PARAGRAPH. c. The violation of the statutory  
50 compulsory attendance age requirement or the

H-6057

-5-

H-6057

Page 6

1 attendance policy of a public or an accredited  
2 nonpublic school with at least six unexcused absences  
3 during a semester which results in the child being  
4 deemed a truant pursuant to section 299.8. However,  
5 this provision shall not apply to a child attending a  
6 nonaccredited nonpublic school or receiving competent  
7 private instruction.

8 Sec. 13. Section 232.19, subsection 2, Code 1993,  
9 is amended to read as follows:

10 2. When a child is taken into custody as provided  
11 in subsection 1 the person taking the child into  
12 custody shall notify the child's parent, guardian or  
13 custodian as soon as possible and shall not place  
14 bodily restraints, such as handcuffs, on the child  
15 unless the child physically resists or threatens  
16 physical violence when being taken into custody.  
17 However, if the child is thirteen years of age or  
18 older, the person taking the child into custody may  
19 place bodily restraints, such as handcuffs, on the  
20 child, regardless of whether the child physically  
21 resists or threatens physical violence. Unless the  
22 child is placed in shelter care or detention in  
23 accordance with the provisions of section 232.21 or  
24 232.22, the child shall be released to the child's  
25 parent, guardian, custodian, responsible adult  
26 relative, or other adult approved by the court upon  
27 the promise of such person to produce the child in  
28 court at such time as the court may direct.

29 Sec. 14. Section 232.19, Code 1993, is amended by  
30 adding the following new subsection:

31 NEW SUBSECTION. 4. Notwithstanding any other  
32 provision of this chapter, a child shall not be placed  
33 in detention, or in a secure facility as part of a  
34 dispositional order under section 232.52 for a  
35 violation by that child of section 299.8.

36 Sec. 15. Section 232.28, subsection 3, Code 1993,  
37 is amended by adding the following new paragraph:

38 NEW PARAGRAPH. 5. Notify the superintendent of  
39 the school district or the superintendent's designee,  
40 or the authorities in charge of the nonpublic school  
41 which the child attends of the child being taken into  
42 custody or receiving a citation involving alcohol or  
43 controlled substance possession, as provided in  
44 sections 123.47B and 124.415.

45 Sec. 16. Section 232.42, Code 1993, is amended by  
46 adding the following new subsection:

47 NEW SUBSECTION. 3. Proceedings may be continued  
48 for up to one year upon the request of the county  
49 attorney and the child to permit the making of  
50 probation arrangements prior to the adjudicatory

H-6057

-6-

H-6057

Page 7

1 hearing. If either the child or the county attorney  
2 requests that the adjudicatory hearing be held at any  
3 time during the period of the continuance, the court  
4 shall set the matter for hearing.

5 Sec. 17. Section 232.45A, subsections 2 and 3,  
6 Code 1993, are amended to read as follows:

7 2. Once a child sixteen years of age or older has  
8 been waived to and convicted of a ~~foreible felony or-a~~  
9 ~~felony-violation-of-section-124-401-or-chapter-707~~ by  
10 the district court, all criminal proceedings against  
11 the child for any ~~foreible felony or-a-felony~~  
12 ~~violation-of-section-124-401-or-chapter-707~~ occurring  
13 subsequent to the date of the conviction of the child  
14 shall begin in district court, notwithstanding  
15 sections 232.8 and 232.45. A copy of the findings  
16 required by section 232.45, subsection 8, shall be  
17 made a part of the record in the district court  
18 proceedings.

19 3. If proceedings against a child for a ~~foreible~~  
20 ~~felony or-a-felony-violation-of-section-124-401-or~~  
21 ~~chapter-707~~ who has previously been waived to and  
22 convicted of such an offense by the district court are  
23 mistakenly begun in the juvenile court, the matter  
24 shall be transferred to district court upon the  
25 discovery of the prior waiver and conviction,  
26 notwithstanding sections 232.8 and 232.45.

27 Sec. 18. Section 232.52, subsection 2, paragraph  
28 e, Code 1993, is amended by adding the following new  
29 subparagraph:

30 NEW SUBPARAGRAPH. (5) The child has not  
31 successfully completed the alternative short-term  
32 placement program under section 232.191.

33 Sec. 19. Section 232.78, subsection 1, unnumbered  
34 paragraph 1, Code 1993, is amended to read as follows:

35 The juvenile court may enter an ex parte order  
36 directing a peace officer or a juvenile court officer  
37 to take custody of a child before or after the filing  
38 of a petition under this chapter provided all of the  
39 following apply:

40 Sec. 20. Section 232.79, subsection 1, unnumbered  
41 paragraph 1, Code 1993, is amended to read as follows:

42 A peace officer or juvenile court officer may take  
43 a child into custody or a physician treating a child  
44 may keep the child in custody, or a juvenile court  
45 officer may authorize a peace officer, physician, or  
46 medical security personnel to take a child into  
47 custody, without a court order as required under  
48 section 232.78 and without the consent of a parent,  
49 guardian, or custodian provided that both of the  
50 following apply:

H-6057



H-6057

Page 8

1 Sec. 21. Section 232.147, Code Supplement 1993, is  
2 amended by adding the following new subsections:

3 NEW SUBSECTION. 9. A juvenile court officer or  
4 law enforcement agency may disclose the name of the  
5 child and an adjudication of delinquency or citation  
6 involving alcohol or controlled substance possession  
7 to the superintendent of the school district, the  
8 superintendent's designee, or the authorities in  
9 charge of the nonpublic school which the child  
10 attends, as provided in sections 123.47B and 124.415  
11 or past adjudications of delinquency or citations  
12 involving alcohol or controlled substance possession  
13 or indictable offenses committed by the child.

14 NEW SUBSECTION. 10. Notwithstanding any provision  
15 to the contrary, the county attorney may disclose  
16 information which would otherwise be confidential  
17 pursuant to this section to the extent necessary to  
18 initiate or conduct proceedings pertaining to seized  
19 or forfeited property in accordance with chapter 809.

20 Sec. 22. Section 232.148, Code 1993, is amended to  
21 read as follows:

22 232.148 FINGERPRINTS -- PHOTOGRAPHS.

23 1. Except as provided in this section, a child  
24 shall not be fingerprinted or photographed by a  
25 criminal justice agency after the child is taken into  
26 custody.

27 2. Fingerprints and photographs of a child who has  
28 been taken into custody and who is fourteen years of  
29 age or older may be taken and filed by a criminal  
30 justice agency investigating the commission of a  
31 public offense constituting a felony other than a  
32 simple misdemeanor. However, fingerprint and  
33 photograph files of a child who enters into an  
34 informal adjustment or consent decree shall be  
35 retained only if the child is notified at the time of  
36 entering into the informal adjustment or consent  
37 decree that the files will be permanently retained by  
38 the criminal justice agency. The criminal justice  
39 agency shall forward the fingerprints to the  
40 department of public safety for inclusion in the  
41 automated fingerprint identification system. However,  
42 unless otherwise authorized pursuant to section  
43 232.45A or 690.4, or as otherwise authorized by law, a  
44 criminal history record shall not be created for  
45 inclusion in an automated system due to the retention  
46 of fingerprints pursuant to this section.

47 3. If a peace officer has reasonable grounds to  
48 believe that latent fingerprints found during the  
49 investigation of the commission of a public offense  
50 are those of a particular child, fingerprints of the

H-6057

-8-

H-6057

Page 9

1 child may be taken for immediate comparison with the  
2 latent fingerprints regardless of the nature of the  
3 offense. ~~If the comparison is negative the~~  
4 ~~fingerprint card and other copies of the fingerprints~~  
5 ~~taken shall be immediately destroyed.~~ If the  
6 comparison is positive and the child is referred to  
7 the court, the fingerprint card and other copies of  
8 the fingerprints taken shall be delivered to the court  
9 for disposition division of criminal investigation of  
10 the department of public safety in the manner and on  
11 the forms prescribed by the commissioner of public  
12 safety within two working days after the fingerprints  
13 are taken. ~~If the child is not referred to the court,~~  
14 ~~the fingerprint card and copies of the fingerprints~~  
15 ~~shall be immediately destroyed.~~

16 4. ~~Fingerprint and photograph files of children~~  
17 ~~shall be kept separate from those of adults.~~ ~~Copies~~  
18 ~~of fingerprints and photographs of a child shall not~~  
19 ~~be placed in any data storage system established and~~  
20 ~~maintained by the department of public safety pursuant~~  
21 ~~to chapter 692, or in any federal depository for~~  
22 ~~fingerprints.~~

23 ---5 4. Fingerprint and photograph files of children  
24 may be inspected by peace officers when necessary for  
25 the discharge of their official duties. The juvenile  
26 court may authorize other inspections of such files in  
27 individual cases upon a showing that inspection is  
28 necessary in the public interest.

29 6 5. Fingerprints and photographs of a child shall  
30 be removed from the file and destroyed ~~if~~ upon  
31 notification to the department of public safety that  
32 any of the following situations apply:

33 a. A petition alleging the child to be delinquent  
34 is not filed and the child has not entered into an  
35 informal adjustment, admitting involvement in a  
36 delinquent act alleged in the complaint.

37 b. After a petition is filed, the petition is  
38 dismissed or the proceedings are suspended and the  
39 child has not entered into a consent decree and has  
40 not been adjudicated delinquent on the basis of a  
41 delinquent act other than one alleged in the petition  
42 in question.

43 c. Upon petition by the child when the child  
44 reaches twenty-one years of age and the child has not  
45 been adjudicated a delinquent nor convicted of  
46 committing an aggravated misdemeanor or a felony after  
47 reaching sixteen years of age.

48 Sec. 23. Section 232.150, Code 1993, is amended by  
49 adding the following new subsection:

50 NEW SUBSECTION. 1A. Upon an application pursuant

H-6057

-9-

H-6057

Page 10

1 to this section by a person whose activities resulted  
2 in the seizure or forfeiture of property pursuant to  
3 chapter 809, the court shall consider whether records  
4 pertaining to the seizure and forfeiture should be  
5 sealed also. The court shall take into account the  
6 interests of the person seeking to have the records  
7 sealed as well as any person claiming an interest in  
8 the property.

9 Sec. 24. NEW SECTION. 232.191 ALTERNATIVE SHORT-  
10 TERM DELINQUENT PLACEMENT PILOT PROGRAM.

11 The department shall establish and implement no  
12 later than January 1, 1995, an alternative short-term  
13 delinquent placement pilot program at an existing  
14 facility for juveniles who have been adjudicated  
15 delinquent to be chosen by the department. The  
16 program shall consist of a resident phase and follow-  
17 up services. The resident phase of the program shall  
18 stress discipline and physical activities. The  
19 department shall develop criteria for the regimen to  
20 be followed and for admission to the resident phase.  
21 The department shall also develop criteria for  
22 providing follow-up services to a child who  
23 successfully completes the resident phase. Follow-up  
24 services shall be community-based and designed to  
25 assist the child to live without supervision after the  
26 provision of follow-up services ends.

27 Sec. 25. NEW SECTION. 232.192 EARLY INTERVENTION  
28 AND FOLLOW-UP PROGRAMS.

29 Contingent on a specific appropriation for these  
30 purposes, the department shall do the following:

31 1. Develop or expand programs providing specific  
32 life skills and interpersonal skills training for  
33 adjudicated delinquent youth who pose a low or  
34 moderate risk to the community.

35 2. Develop or expand a school-based program  
36 addressing truancy and school behavioral problems for  
37 youth ages twelve through seventeen.

38 3. Develop or expand an intensive tracking and  
39 supervision program for adjudicated delinquent youth  
40 at risk for placement who have been released from  
41 resident facilities, which shall include telephonic or  
42 electronic tracking and monitoring and intervention by  
43 juvenile authorities.

44 4. Develop or expand supervised community  
45 treatment for adjudicated delinquent youth who  
46 experience significant problems and who constitute a  
47 moderate community risk.

48 Sec. 26. NEW SECTION. 280.9B VIOLENCE PREVENTION  
49 CURRICULUM.

50 The department of education shall develop a

H-6057

H-6057

Page 11

1 statewide violence prevention program based on law-  
2 related education. The department shall contract with  
3 a law-related education agency that serves the state  
4 and provides a comprehensive plan to develop violence  
5 prevention curricula for grades K through twelve,  
6 provide training to teachers and school administrators  
7 on violence prevention, and develop school-community  
8 partnerships for violence prevention.

9 Sec. 27. Section 299.8, Code 1993, is amended to  
10 read as follows:

11 299.8 "TRUANT" DEFINED.

12 Any child of compulsory attendance age who fails to  
13 attend school as provided in this chapter, or as  
14 required by the school board's or school governing  
15 body's attendance policy, or who fails to attend  
16 competent private instruction under chapter 299A,  
17 without reasonable excuse for the absence, shall be  
18 deemed to be a truant. ~~A finding that a child is~~  
19 ~~truant, however, shall not by itself mean that the~~  
20 ~~child is a child in need of assistance within the~~  
21 ~~meaning of chapter 232 and shall not be the sole basis~~  
22 ~~for a child in need of assistance petition.~~

23 Sec. 28. NEW SECTION. 321.210B SUSPENSION OF  
24 PERSON'S LICENSE FOR ALCOHOL OFFENSES.

25 The department shall suspend for ninety days for a  
26 first offense, one hundred eighty days for a second  
27 offense, and one year for third and subsequent  
28 offenses the motor vehicle license of a person under  
29 the age of eighteen who is adjudicated delinquent for  
30 a violation of section 123.47 or 321J.2 if not  
31 otherwise revoked under section 321J.4.

32 Sec. 29. NEW SECTION. 321.210C SUSPENSION OF  
33 PERSON'S LICENSE FOR TRUANCY CONSTITUTING A DELINQUENT  
34 ACT.

35 The department shall suspend for ninety days the  
36 motor vehicle license of a juvenile who commits a  
37 delinquent act under section 232.2, subsection 12,  
38 paragraph "c", or postpone the issuance of a license  
39 for ninety days in the case of a juvenile who had not  
40 yet received a license at the time the delinquent act  
41 was committed.

42 Sec. 30. Section 453A.2, Code 1993, is amended to  
43 read as follows:

44 453A.2 PERSONS UNDER LEGAL AGE.

45 1. A person shall not sell, give, or otherwise  
46 supply any tobacco, tobacco products, or cigarettes to  
47 any person under eighteen years of age and a.

48 2. A person under eighteen years of age shall not  
49 smoke, use, possess, purchase, or attempt to purchase  
50 any tobacco, tobacco products, or cigarettes.

H-6057

H-6057

Page 12

1 2 3. The Iowa department of public health, a  
2 county health department, a city health department, or  
3 a city may directly enforce this section in district  
4 court and initiate proceedings pursuant to section  
5 453A.22 before a permit-issuing authority against a  
6 permit holder violating this section.

7 3 4. Payment and distribution of court costs,  
8 fees, and fines in a prosecution initiated by a city  
9 or county shall be made as provided in chapter 602 for  
10 violation of a city or county ordinance.

11 Sec. 31. Section 453A.3, Code 1993, is amended to  
12 read as follows:

13 453A.3 PENALTY.

14 A person who violates section 453A.2, subsection 1  
15 or 453A.39 is guilty of a simple misdemeanor.

16 A person who violates section 453A.2, subsection 2,  
17 shall pay a civil penalty pursuant to section 805.8,  
18 subsection 11. Failure to pay the civil penalty  
19 imposed for a violation of section 453A.2, subsection  
20 2, is a simple misdemeanor punishable as a scheduled  
21 violation under section 805.8, subsection 11.

22 Sec. 32. Section 613.16, subsection 2, Code 1993,  
23 is amended to read as follows:

24 2. The legal obligation of the parent or parents  
25 of an unemancipated minor child under the age of  
26 eighteen years to pay damages shall be limited as  
27 follows:

28 a. Not more than one two thousand dollars for any  
29 one act.

30 b. Not more than two five thousand dollars,  
31 payable to the same claimant, for two or more acts.

32 Sec. 33. Section 709A.2, Code 1993, is amended to  
33 read as follows:

34 709A.2 PENALTY -- NOT A BAR.

35 A violation of section 709A.1, subsection 1, is a  
36 simple serious misdemeanor. Any other violation of  
37 section 709A.1 is a simple misdemeanor. A conviction  
38 does not bar a prosecution of the convicted person for  
39 an another indictable offense when the acts which  
40 caused or contributed to the delinquency or dependency  
41 of the child are indictable.

42 Sec. 34. Section 723A.1, subsection 1, Code 1993,  
43 is amended by adding the following new paragraph:

44 NEW PARAGRAPH. g. An offense constituting a  
45 violation of section 725.2.

46 Sec. 35. Section 723A.2, Code 1993, is amended by  
47 adding the following new unnumbered paragraph:

48 NEW UNNUMBERED PARAGRAPH. Criminal intelligence  
49 data under section 692.1 may include relevant  
50 information pertaining to the person's association or

H-6057

H-6057

Page 13

1 affiliation with a criminal street gang.

2 Sec. 36. NEW SECTION. 724.4A WEAPONS FREE ZONES

3 -- ENHANCED PENALTIES.

4 1. As used in this section, "weapons free zone"  
5 means the area in or on, or within one thousand feet  
6 of, the real property comprising a public or private  
7 elementary or secondary school, or in or on the real  
8 property comprising a public park. A weapons free  
9 zone shall not include that portion of a public park  
10 designated as a hunting area under section 461A.42.

11 2. Notwithstanding sections 902.9 and 903.1, a  
12 person who commits a public offense involving a  
13 firearm or offensive weapon, within a weapons free  
14 zone, in violation of this or any other chapter shall  
15 be sentenced as follows:

16 a. If the offense is a class "D" felony, by  
17 imprisonment not to exceed ten years and a fine of not  
18 more than ten thousand dollars.

19 b. If the offense is an aggravated misdemeanor, by  
20 imprisonment not to exceed five years and a fine of  
21 not more than seven thousand five hundred dollars.

22 c. If the offense is a serious misdemeanor, by  
23 imprisonment not to exceed one year and six months or  
24 a fine of not more than five thousand dollars, or  
25 both.

26 d. If the offense is a simple misdemeanor, by  
27 imprisonment not to exceed one year or a fine of not  
28 more than one thousand dollars, or both.

29 Sec. 37. Section 724.22, subsections 1 and 2, Code  
30 1993, are amended to read as follows:

31 1. Except as provided in subsection 3, a person  
32 who sells, loans, gives, or makes available a rifle or  
33 shotgun or ammunition for a rifle or shotgun to a  
34 minor commits a simple serious misdemeanor for a first  
35 offense and a class "D" felony for second and  
36 subsequent offenses.

37 2. Except as provided in subsections 4 and 5, a  
38 person who sells, loans, gives, or makes available a  
39 pistol or revolver or ammunition for a pistol or  
40 revolver to a person below the age of twenty-one  
41 commits a simple serious misdemeanor for a first  
42 offense and a class "D" felony for second and  
43 subsequent offenses.

44 Sec. 38. NEW SECTION. 724.30 RECKLESS USE OF A  
45 FIREARM.

46 A person who intentionally discharges a firearm in  
47 a reckless manner commits the following:

48 1. A class "C" felony if a serious injury or over  
49 one thousand dollars of property damage occurs.

50 2. A class "D" felony if a bodily injury which is

H-6057

H-6057

Page 14

1 not a serious injury or property damage of one  
2 thousand dollars or less occurs.

3 3. A simple misdemeanor if no injury to a person  
4 or damage to property occurs.

5 Sec. 39. Section 805.8, subsection 11, Code  
6 Supplement 1993, is amended to read as follows:

7 11. SMOKING VIOLATIONS. For violations of section  
8 142B.6 or 453A.2, subsection 2, the scheduled fine is  
9 twenty-five dollars, and is a civil penalty, and the  
10 criminal penalty surcharge under section 911.2 shall  
11 not be added to the penalty, and the court costs  
12 pursuant to section 805.9, subsection 6, shall not be  
13 imposed. If the civil fine penalty assessed for a  
14 violation of section 142B.6 is not paid in a timely  
15 manner, a citation shall be issued for the violation  
16 in the manner provided in section 804.1. However, a  
17 person under age eighteen shall not be detained in a  
18 secure facility for failure to pay the civil penalty.  
19 The complainant shall not be charged a filing fee.

20 For failing to pay the civil penalty under section  
21 453A.2, the scheduled fine is twenty-five dollars.  
22 Failure to pay the scheduled fine shall not result in  
23 the person being detained in a secure facility. The  
24 complainant shall not be charged a filing fee.

25 Sec. 40. Section 808A.1, subsection 1, paragraph  
26 d, Code 1993, is amended to read as follows:

27 d. A school locker, desk, or other facility or  
28 space issued or assigned to, or chosen by, the student  
29 for the storage of personal belongings of any kind,  
30 which the student locks or is permitted to lock.  
31 School officials may conduct periodic inspections of  
32 all school lockers, provided the student is present  
33 when the student's locker is searched. However, the  
34 school-district-shall-provide-notice-to-the-students,  
35 at-least-twenty-four-hours-prior-to-the-inspection, of  
36 the-date-and-time-of-the-inspection.

37 Sec. 41. Section 809.1, Code 1993, is amended to  
38 read as follows:

39 809.1 DEFINITIONS.

40 As used in this chapter, unless the context  
41 otherwise requires:

42 1. "Seizable property" means any of the following:

43 a. Property which is relevant in a criminal  
44 prosecution or investigation or in delinquency  
45 proceedings or investigations of delinquent acts  
46 pursuant to chapter 232.

47 b. Property defined by law to be forfeitable  
48 property.

49 c. Property which if not seized by the state poses  
50 an imminent danger to a person's health, safety, or

H-6057

-14-

H-6057

Page 15

1 welfare.

2 2. "Forfeitable property" means any of the  
3 following:

4 a. Property which is illegally possessed.

5 b. Property which has been used or is intended to  
6 be used to facilitate the commission of a criminal  
7 offense or delinquent act or to avoid detection or  
8 apprehension of a person committing a criminal offense  
9 or delinquent act.

10 c. Property which is acquired as or from the  
11 proceeds of a criminal offense or delinquent act.

12 d. Property offered or given to another as an  
13 inducement for the commission of a criminal offense or  
14 delinquent act.

15 3. "Seized property" means property taken or held  
16 by any law enforcement agency without the consent of  
17 the person, if any, who had possession or a right to  
18 possession of the property at the time it was taken  
19 into custody. Seized property does not include  
20 property taken into custody solely for safekeeping  
21 purposes or property taken into custody with the  
22 consent of the owner or the person who had possession  
23 at the time of the taking. If consent to the taking  
24 of property was given by the person in possession of  
25 the property and later withdrawn or found to be  
26 insufficient, the property shall then be returned or  
27 the property shall be deemed seized as of the time of  
28 the demand and refusal.

29 4. The definitions contained in subsections 1  
30 through 3 shall not apply to violations of chapter 321  
31 or 321J, or to delinquent acts arising solely as a  
32 result of a violation of chapter 321J.

33 Sec. 42. Section 809.5, subsection 1, Code 1993,  
34 is amended to read as follows:

35 1. Seized property which is no longer required as  
36 evidence or for use in an investigation may be  
37 returned to the owner without the requirement of a  
38 hearing, provided that the person's possession of the  
39 property is not prohibited by law and there is no  
40 forfeiture claim filed on behalf of the state. The  
41 seizing agency or, prosecuting attorney, or county  
42 attorney filing a delinquency petition shall send  
43 notice by regular mail, if the value of the property  
44 is less than fifty dollars, or certified mail, if the  
45 value of the property is equal to or greater than  
46 fifty dollars, to the last known address of any person  
47 having an ownership or possessory right in the  
48 property stating that the property is released and  
49 must be claimed within thirty days. Such notice shall  
50 state that if no written claim for the property is

H-6057



H-6057

Page 16

1 made upon the seizing agency within thirty days after  
2 the mailing of notice, the property shall be deemed  
3 abandoned and disposed of accordingly. In the event  
4 that there is more than one party who may assert a  
5 right to possession or ownership of the property, the  
6 seizing agency shall not release the property to any  
7 party until the expiration of the date for filing  
8 claims unless all other claimants execute a written  
9 waiver. In the event that there is more than one  
10 claim filed for the return of property under this  
11 section, at the expiration of the period for filing  
12 claims the seizing agency or, prosecuting attorney, or  
13 county attorney filing a delinquency petition shall  
14 file a copy of all such claims with the clerk of court  
15 and the clerk shall proceed as if such claims were  
16 filed by the parties under section 809.3. In the  
17 event that no owner can be located or no claim is  
18 filed under this section, the property shall be deemed  
19 abandoned and the seizing agency shall become the  
20 owner of such property and may dispose of it in any  
21 reasonable manner.

22 Sec. 43. Section 809.5, subsection 2, paragraph c,  
23 Code 1993, is amended to read as follows:

24 c. The state has demonstrated that the evidence is  
25 needed in a criminal investigation or prosecution or  
26 in delinquency proceedings or investigations of  
27 delinquent acts pursuant to chapter 232.

28 Sec. 44. Section 809.5, subsection 3, Code 1993,  
29 is amended to read as follows:

30 3. The court shall, subject to any unresolved  
31 forfeiture hearing, make orders appropriate to the  
32 final disposition of the property including, but not  
33 limited to, the destruction of contraband once it is  
34 no longer needed in an investigation or prosecution,  
35 or pursuant to delinquency proceedings under chapter  
36 232.

37 Sec. 45. Section 809.7, unnumbered paragraph 2,  
38 Code 1993, is amended to read as follows:

39 Property which has been seized for forfeiture, and  
40 is not already secured as evidence in a criminal case  
41 or delinquency proceedings pursuant to chapter 232,  
42 shall be safely secured or stored by the agency which  
43 caused its seizure unless directed otherwise by the  
44 attorney general.

45 Sec. 46. Section 809.11, subsection 1, Code 1993,  
46 is amended to read as follows:

47 1. Forfeiture is a civil proceeding. At the  
48 hearing the burden is on the state to prove by a  
49 preponderance of the evidence that the property is  
50 forfeitable. However, forfeiture is not dependent

H-6057

-16-

H-6057

Page 17

1 upon a prosecution for, or conviction of, a criminal  
2 offense, or the filing of a delinquency complaint or  
3 petition or adjudication of delinquency pursuant to  
4 chapter 232, and forfeiture proceedings are separate  
5 and distinct from any related criminal or juvenile  
6 court action.

7 Sec. 47. Section 809.12, subsection 2, Code 1993,  
8 is amended to read as follows:

9 2. If property forfeitable under this chapter is  
10 needed as evidence in a criminal or delinquency  
11 proceeding, it shall be retained under the control of  
12 the prosecuting attorney, or the prosecuting  
13 attorney's designee, or the county attorney filing a  
14 delinquency petition or the county attorney's  
15 designee, until such time as its use as evidence is no  
16 longer required.

17 Sec. 48. Section 809.13, subsection 2, Code 1993,  
18 is amended to read as follows:

19 2. Forfeited property not needed as evidence in a  
20 criminal case or delinquency proceeding shall be  
21 delivered to the department of justice, or, upon  
22 written authorization of the attorney general or the  
23 attorney general's designee, the property may be  
24 destroyed, sold, or delivered to an appropriate agency  
25 for disposal in accordance with this section.

26 Sec. 49. Section 809.13, subsection 4, Code 1993,  
27 is amended to read as follows:

28 4. Forfeited property which is not used by the  
29 department of justice in the enforcement of the law  
30 may be requisitioned by the department of public  
31 safety or any law enforcement agency within the state  
32 for use in enforcing the criminal laws of this state  
33 and the delinquency provisions of chapter 232.

34 Forfeited property not requisitioned may be delivered  
35 to the director of the department of general services  
36 to be disposed of in the same manner as property  
37 received pursuant to section 18.15.

38 Sec. 50. Section 809.14, subsection 1, Code 1993,  
39 is amended to read as follows:

40 1. Property shall not be forfeited under this  
41 chapter to the extent of the interest of an owner,  
42 other than a joint tenant, who had no part in the  
43 commission of the crime or delinquent act and who had  
44 no knowledge of the criminal or delinquent use or  
45 intended use of the property. However, if it is  
46 established by a preponderance of the evidence that  
47 the owner permitted the use of the property under  
48 circumstances in which the owner knew or should have  
49 known that the property was being used for a criminal  
50 purpose, there is a rebuttable presumption that the

H-6057

-17-

H-6057

Page 18

1 owner knew that the property was intended to be used  
2 in the commission of a crime.

3 Sec. 51. Section 809.14, subsection 4, Code 1993,  
4 is amended to read as follows:

5 4. This section does not preclude a civil suit by  
6 an owner of an interest in forfeited property against  
7 the party who, by criminal or delinquent use, caused  
8 the property to become forfeited to the state.

9 Sec. 52. Section 907.3, subsection 2, Code  
10 Supplement 1993, is amended to read as follows:

11 2. At the time of or after pronouncing judgment  
12 and with the consent of the defendant, the court may  
13 defer the sentence and assign the defendant to the  
14 judicial district department of correctional services.  
15 However, the court shall not defer the sentence for a  
16 violation of section 708.2A if the defendant has  
17 previously received a deferred judgment or sentence  
18 for a violation of section 708.2 or 708.2A which was  
19 issued on a domestic abuse assault, or if similar  
20 relief was granted anywhere in the United States  
21 concerning that jurisdiction's statutes which  
22 substantially correspond to domestic abuse assault as  
23 provided in section 708.2A, and the court shall not  
24 defer a sentence for a violation of section 124.406,  
25 subsection 4. In addition, the court shall not defer  
26 a sentence if it is imposed for contempt pursuant to  
27 section 236.8 or 236.14. Upon a showing that the  
28 defendant is not fulfilling the conditions of  
29 probation, the court may revoke probation and impose  
30 any sentence authorized by law. Before taking such  
31 action, the court shall give the defendant an  
32 opportunity to be heard on any matter relevant to the  
33 proposed action. Upon violation of the conditions of  
34 probation, the court may proceed as provided in  
35 chapter 908.

36 Sec. 53. Section 907.3, subsection 3, Code  
37 Supplement 1993, is amended to read as follows:

38 3. By record entry at the time of or after  
39 sentencing, the court may suspend the sentence and  
40 place the defendant on probation upon such terms and  
41 conditions as it may require including commitment to  
42 an alternate jail facility or a community correctional  
43 residential treatment facility for a specific number  
44 of days to be followed by a term of probation as  
45 specified in section 907.7. A person so committed who  
46 has probation revoked shall be given credit for such  
47 time served. However, the court shall not suspend the  
48 minimum term of two days imposed pursuant to section  
49 708.2A, and the court shall not suspend a sentence  
50 imposed pursuant to section 236.8 or 236.14 for

H-6057

-18-

H-6057

Page 19

1 contempt or the minimum term of five years imposed by  
2 section 124.406, subsection 4.

3 Sec. 54. APPROPRIATION -- TRANSFER. For the  
4 fiscal year beginning July 1, 1994, and ending June  
5 30, 1995, \$362,500 shall be appropriated from the  
6 general fund to the governor's alliance on substance  
7 abuse to provide one-time grants to community-based  
8 correctional programs for replication of the youthful  
9 offender program established in Polk county. The  
10 governor's alliance on substance abuse may provide a  
11 one-time grant of up to \$100,000 to each eligible  
12 community-based correctional program, which applies  
13 for a grant for a proposal for replication of the  
14 youthful offender program to the governor's alliance  
15 on substance abuse by September 1, 1994. The  
16 governor's alliance on substance abuse shall submit a  
17 report to the general assembly regarding the  
18 distribution of these funds by January 15, 1995.

19 Sec. 55. APPROPRIATION -- TRUANCY AND SCHOOL  
20 BEHAVIORAL PROBLEMS. There is appropriated from the  
21 general fund of the state to the department of human  
22 services for the fiscal year beginning July 1, 1994,  
23 and ending June 30, 1995, the following amount, or so  
24 much thereof as is necessary, to be used for the  
25 purpose designated:

26 For school-based programs addressing truancy and  
27 school behavioral problems pursuant to section  
28 232.192, subsection 2, as enacted in this Act:  
29 ..... \$ 200,000

30 Sec. 56. APPROPRIATION -- VIOLENCE PREVENTION  
31 CURRICULUM. There is appropriated from the general  
32 fund of the state to the department of education for  
33 the fiscal year beginning July 1, 1994, and ending  
34 June 30, 1995, the following amount, or so much  
35 thereof as is necessary, to be used for the following  
36 purpose:

37 For implementation of a statewide violence  
38 prevention program pursuant to section 280.9B, as  
39 enacted in this Act:  
40 ..... \$ 75,000

41 Sec. 57. APPROPRIATION -- ASSOCIATE JUVENILE  
42 JUDGE. There is appropriated from the general fund of  
43 the state to the judicial department for the fiscal  
44 year beginning July 1, 1994, and ending June 30, 1995,  
45 the following amount, or so much thereof as is  
46 necessary, to be used for the purpose designated:

47 For an additional associate juvenile judge for a  
48 judicial district located in a county with a  
49 population over two hundred twenty-five thousand,  
50 including salaries, support, maintenance,

H-6057

H-6057

Page 20

1	miscellaneous purposes, and for not more than the	
2	following full-time equivalent positions:	
3	.....	\$ 140,000
4	.....	FTEs 2.75

5 . 2. Title page, by striking lines 1 through 3 and  
 6 inserting the following: "An Act relating to juvenile  
 7 justice by establishing or enhancing penalties for  
 8 delinquent acts which may be committed by juveniles,  
 9 establishing or enhancing penalties for public  
 10 offenses relating to juvenile justice, authorizing  
 11 searches of student lockers in a school without  
 12 advance notice, and making related appropriations."

By COMMITTEE ON JUDICIARY  
 AND LAW ENFORCEMENT  
 McNEAL of Hardin, Chairperson

H-6057 FILED APRIL 8, 1994

*Adopted  
 CWS  
 4-12-94*

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 2319

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

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 2319, a bill for an Act relating to juvenile justice by providing in-service training requirements for law enforcement officers; prohibiting the purchase of alcoholic liquor, wine, or beer by juveniles and imposing a penalty; imposing a scheduled fine against persons holding liquor licenses for allowing persons under legal drinking age to obtain or consume alcoholic beverages; providing concurrent jurisdiction for magistrates over juveniles who possess or purchase alcoholic beverages; authorizing detention hearings to be held in the county in

CCS-2319

Page 2

which the juvenile is detained; subjecting a juvenile to permanent waiver to the district court after conviction for an aggravated misdemeanor committed against a person; providing for the suspension of the motor vehicle license or operating privilege of a juvenile for two or more delinquent acts involving alcoholic beverages or controlled substances; providing that the juvenile court may require parental or guardian involvement in the probation plan for a juvenile and permit grandparent involvement in child in need of assistance proceedings; changing the requirements for terminating parental rights in certain circumstances; providing for the retention of fingerprint and photograph records of juveniles over fourteen years of age; establishing a community grant fund for juvenile crime prevention programs; encouraging the adoption of alternative options educational programs by school districts and authorizing the use of phase III moneys for the development of certain instructional programs; providing that a juvenile not attending school or other educational program or working at least twenty hours per week shall not receive a motor vehicle license; authorizing a truancy mediator to refer a truant to juvenile court; making changes to the manner in which associate juvenile judge decisions are appealed; increasing parental financial responsibility for the acts of children; creating new weapons offenses and establishing or enhancing penalties for weapons offenses; enhancing penalties for child endangerment; providing for searches of student lockers without advance notice under certain circumstances; establishing a parenting pilot project; and making appropriations, respectfully make the following report:

1. That House recedes from its amendment, S-5609.
2. That Senate File 2319, as amended, passed, and reprinted by the Senate, is amended as follows:
  1. By striking everything after the enacting clause and inserting the following:

"Section 1. Section 80B.11, Code Supplement 1993, is amended by adding the following new subsection:

CCS-2319

Page 3

NEW SUBSECTION. 3A. Within the existing curriculum, expand training regarding racial and cultural awareness and dealing with gang-affected youth.

Sec. 2. Section 123.47, Code 1993, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter. A person, other than a licensee or permittee, who violates this section regarding the purchase or attempt to purchase of alcoholic liquor, wine, or beer shall pay a twenty-five dollar penalty.

Sec. 3. Section 123.47A, Code 1993, is amended to read as follows:

123.47A PERSONS AGE EIGHTEEN, NINETEEN, AND TWENTY -- PENALTY.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen,



CCS-2319

Page 4

nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge, presence, and consent of the person's parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a second or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

2. For the purpose of determining if a violation charged is a second or subsequent offense, a conviction or plea of guilty to a violation of this section shall be counted as a previous offense.

Sec. 4. Section 123.49, subsection 2, paragraph h, Code 1993, is amended to read as follows:

CCS-2319

Page 5

h. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or ~~having-reasonable cause-to-believe-the-person-to-be~~ failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or ~~having-reasonable-cause-to-believe-the-person-to-be~~ failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

Sec. 5. Section 123.50, subsection 1, Code Supplement 1993, is amended to read as follows:

1. Any person who violates any of the provisions of section 123.49, except subsection 2, paragraph "h", shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph "h", commits a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

Sec. 6. Section 124.401A, Code 1993, is amended to read as follows:

124.401A ENHANCED PENALTY FOR DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, or II which-is-a-narcotic-or-cocaine, or III, or a simulated controlled substance represented to be a narcotic-or-cocaine controlled substance classified in schedule I, or II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, may, at the judge's discretion, be sentenced up to an additional term of confinement of five years.

Sec. 7. NEW SECTION. 124.401B POSSESSION OF CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

CCS-2319

Page 6

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

Sec. 8. Section 124.406, subsection 1, paragraphs a and b, Code 1993, are amended to read as follows:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II, ~~which is a narcotic or cocaine,~~ to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with the intent to distribute a controlled substance ~~other than a narcotic or cocaine~~ listed in schedule I, ~~II,~~ or III to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

Sec. 9. Section 124.406, subsection 2, paragraphs a and b, Code 1993, are amended to read as follows:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II ~~which is a narcotic or cocaine,~~ or a simulated controlled

CCS-2319

Page 7

substance represented to be a ~~narcotic or cocaine~~ substance classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with intent to distribute a counterfeit substance ~~other than a narcotic or cocaine~~ listed in schedule I ~~or II~~ or III, or a simulated controlled substance represented to be any substance listed in schedule I ~~or II~~ or III, to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

Sec. 10. NEW SECTION. 124.406A USE OF PERSONS UNDER AGE EIGHTEEN IN THE DRUG TRADE.

It is unlawful for a person who is eighteen years of age or older to conspire with or recruit a person under the age of eighteen for the purpose of delivering or manufacturing a controlled substance classified in schedule I through IV. A person violating this section commits a class "C" felony.

Sec. 11. Section 124.415, Code 1993, is amended to read as follows:

124.415 PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile court the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the

CCS-2319

Page 8

officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A juvenile court officer may also notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 12. Section 232.2, subsection 22, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

- a. Conducting in-person interviews with the child and each parent, guardian, or other person having custody of the child.
- b. Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child.
- c. Interviewing any person providing medical, social, educational, or other services to the child.
- d. Obtaining first-hand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.
- e. Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

Sec. 13. Section 232.19, subsection 2, Code 1993, is amended to read as follows:

2. When a child is taken into custody as provided in

CCS-2319

Page 9

subsection 1 the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. However, if the child is thirteen years of age or older, the child may be restrained by metal handcuffs only, for the purpose of transportation in a vehicle which is not equipped with a rear seat cage for prisoner transport and if the child is being taken into custody for an alleged delinquent act of violence against a person. The child may also be restrained by handcuffs or other restraints at any time after the child is taken into custody if the child has a known history of physical violence to others. Unless the child is placed in shelter care or detention in accordance with the provisions of section 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

Sec. 14. Section 232.29, subsection 2, Code 1993, is amended to read as follows:

2. An informal adjustment agreement may prohibit a child from driving a motor vehicle for a specified period of time or under specific circumstances, require the child to perform a work assignment of value to the state or to the public, or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The juvenile court officer shall notify the state department of transportation of the informal adjustment prohibiting the child from driving.

Sec. 15. Section 232.42, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Proceedings may be continued for up to one year upon the request of the county attorney and the child to permit the making of probation arrangements prior to the

CCS-2319

Page 10

adjudicatory hearing. If either the child or the county attorney requests that the adjudicatory hearing be held at any time during the period of the continuance, the court shall set the matter for hearing.

Sec. 16. Section 232.44, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the child is placed in a detention facility in a county other than the county in which the child resides or in which the delinquent act allegedly occurred but which is within the same judicial district, the hearing may take place in the county in which the detention facility is located. The child shall appear in person at the hearing required by this subsection.

Sec. 17. Section 232.44, subsection 7, Code 1993, is amended to read as follows:

7. If a child held in shelter care or detention by court order has not been released after a detention hearing or has not appeared at an adjudicatory hearing before the expiration of the order of detention, an additional hearing shall automatically be scheduled for the next court day following the expiration of the order. The child, the child's counsel, the child's guardian ad litem, and the child's parent, guardian or custodian shall be notified of this hearing not less than twenty-four hours before the hearing is scheduled to take place. The hearing required by this section may be held by telephone conference call.

Sec. 18. Section 232.45A, subsections 2 and 3, Code 1993, are amended to read as follows:

2. Once a child sixteen years of age or older has been waived to and convicted of a ~~foreible felony or a felony violation of section 24-401 or chapter 707~~ by the district court, all criminal proceedings against the child for any ~~foreible felony or a felony violation of section 24-401 or chapter 707~~ occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by

CCS-2319

Page 11

section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for a ~~forefible~~ felony or ~~a-felony-violation-of-section-124.401-or-chapter-707~~ who has previously been waived to and convicted of such an offense by the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.

Sec. 19. Section 232.46, subsection 1, Code 1993, is amended to read as follows:

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include prohibiting a child from driving a motor vehicle for a specified period of time or under specific circumstances, or the supervision of the child by a juvenile court officer or other agency or person designated by the court, and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The court shall notify the state department of transportation of an order prohibiting the child from driving.

Sec. 20. Section 232.47, Code 1993, is amended by adding the following subsection:

NEW SUBSECTION. 12. A juvenile court officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the child attends of the child's adjudication for a delinquent act which would be an indictable offense if committed by an adult.

Sec. 21. Section 232.52, subsection 2, paragraph a, Code



CCS-2319

Page 12

1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The suspension of the motor vehicle license or operating privilege of the child for the commission of one or more delinquent acts which are a violation of section 123.46, section 123.47 regarding the purchase or attempt to purchase of alcoholic beverages, or chapter 124, or two or more delinquent acts which are a violation of section 123.47 regarding the possession of alcoholic beverages for a period of one year. The child may be issued a temporary restricted license or school license if the child is otherwise eligible.

Sec. 22. Section 232.52, subsection 2, paragraph c, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A parent or guardian may be required by the juvenile court to participate in educational or treatment programs as part of a probation plan if the court determines it to be in the best interest of the child. A parent or guardian who does not participate in the probation plan when required to do so by the court may be held in contempt.

Sec. 23. Section 232.78, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The juvenile court may enter an ex parte order directing a peace officer or a juvenile court officer to take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

Sec. 24. Section 232.79, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A peace officer or juvenile court officer may take a child into custody, ~~or~~ a physician treating a child may keep the child in custody, or a juvenile court officer may authorize a peace officer, physician, or medical security personnel to take a child into custody, without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following

CCS-2319

Page 13

apply:

Sec. 25. Section 232.148, Code 1993, is amended to read as follows:

232.148 FINGERPRINTS -- PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal justice agency after the child is taken into custody.

2. Fingerprints and photographs of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency investigating the commission of a public offense constituting a felony other than a simple or serious misdemeanor. However, fingerprint-and-photograph-files-of-a-child-who-enters-into-an-informal-adjustment-or-consent-decree-shall-be-retained-only-if-the-child-is-notified-at-the-time-of-entering-into-the-informal-adjustment-or-consent-decree-that-the-files-will-be-permanently-retained-by-the-criminal-justice-agency. The criminal justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system. However, unless otherwise authorized pursuant to section 232.45A or 690.4, or as otherwise authorized by law, a criminal history record shall not be created for inclusion in an automated system due to the retention of fingerprints pursuant to this section.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and-the-child-is-referred-to-the-court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court-for-disposition division of criminal investigation of the department of public safety in the manner

CCS-2319

Page 14

and on the forms prescribed by the commissioner of public safety within two working days after the fingerprints are taken. If the child is not referred to the court After notification by the child or the child's representative that the child has not had a delinquency petition filed against the child or has not entered into an informal adjustment agreement, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

~~4.--Fingerprint-and-photograph-files-of-children-shall-be kept-separate-from-those-of-adults.--Copies-of-fingerprints and-photographs-of-a-child-shall-not-be-placed-in-any-data storage-system-established-and-maintained-by-the-department-of public-safety-pursuant-to-chapter-692,-or-in-any-federal depository-for-fingerprints.~~

5 4. Fingerprint and photograph files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

6 5. Fingerprints and photographs of a child shall be removed from the file and destroyed if upon notification by the child's guardian ad litem or legal counsel to the department of public safety that any of the following situations apply:

a. A petition alleging the child to be delinquent is not filed and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question.

c. Upon petition by the child when the child reaches twenty-one years of age and the child has not been adjudicated a delinquent nor convicted of committing an aggravated

CCS-2319

Page 15

misdemeanor or a felony after reaching sixteen years of age.

Sec. 26. Section 232.149, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Information regarding a child taken into custody for a violation of chapter 124 involving the possession of a controlled substance, counterfeit substance, or simulated controlled substance shall be disclosed in accordance with section 124.415.

Sec. 27. NEW SECTION. 232.190 COMMUNITY GRANT FUND.

1. A community grant fund is established in the state treasury under the control of the division of criminal and juvenile justice planning of the department of human rights for the purposes of awarding grants under this section. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall assist the division in administering grants awarded under this section. The department of human services shall advise the division on programs which meet the criteria established for grant recipients. Not more than one percent of the moneys appropriated to the fund shall be used for administrative purposes.

2. A city, county, or entity organized under chapter 28E may apply to the department for a grant on a matching basis to fund juvenile crime prevention programs. The match may come from funds provided to the city, county, or entity organized under chapter 28E from private sources, other state programs, or federal programs. A city, county, or entity organized under chapter 28E applying for a grant under this section is encouraged to seek matching funds from, but not limited to, the Iowa finance authority, the governor's alliance on substance abuse, and under the state and federal community reinvestment Acts. Applications shall state specific outcomes sought to be obtained under a program funded by a grant under this section.

3. Programs awarded moneys from the community grant fund shall involve a collaborative effort by all children and

CCS-2319

Page 16

family support service providers to provide services and shall reflect a community-wide consensus in how to remediate community problems and may include programs dealing with truancy which involve school district and community partnerships, and programs involving judicial district community-based corrections programs. Services provided under the programs shall be comprehensive and utilize flexible delivery systems. The department of human services shall establish a point system for determining eligibility for grants from the fund based upon the nature and breadth of the community juvenile crime prevention programs and the extent to which a community has sought to obtain additional public and private funding sources for all or parts of the community's program.

4. This section is repealed effective June 30, 1998. The division of criminal and juvenile justice planning and the department of human services shall submit a report to the general assembly by January 15, 1998, regarding the effectiveness of the programs funded under this section in meeting the objectives contained in subsection 3.

Sec. 28. NEW SECTION. 232.191 EARLY INTERVENTION AND FOLLOW-UP PROGRAMS.

Contingent on a specific appropriation for these purposes, the department shall do the following:

1. Develop or expand programs providing specific life skills and interpersonal skills training for adjudicated delinquent youth who pose a low or moderate risk to the community.

2. Develop or expand a school-based program addressing truancy and school behavioral problems for youth ages twelve through seventeen.

3. Develop or expand an intensive tracking and supervision program for adjudicated delinquent youth at risk for placement who have been released from resident facilities, which shall include telephonic or electronic tracking and monitoring and intervention by juvenile authorities.

CCS-2319

Page 17

4. Develop or expand supervised community treatment for adjudicated delinquent youth who experience significant problems and who constitute a moderate community risk.

Sec. 29. NEW SECTION. 280.9B VIOLENCE PREVENTION CURRICULUM.

The department of education shall develop a statewide violence prevention program based on law-related education. The department shall contract with a law-related education agency that serves the state and provides a comprehensive plan to develop violence prevention curricula for grades K through twelve, provide training to teachers and school administrators on violence prevention, and develop school-community partnerships for violence prevention.

Sec. 30. Section 280.19A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a district has not adopted a plan as required in this section and implemented the plan by January 15, 1996, the area education agency serving the district shall assist the district with developing a plan and an alternative options education program for the pupil. When a plan is developed, the district shall be responsible for the operation of the program and shall reimburse the area education agency for the actual costs incurred by the area education agency under this section.

Sec. 31. Section 294A.14, unnumbered paragraphs 9 and 10, Code Supplement 1993, are amended to read as follows:

For school districts, additional instructional work assignments may include but are not limited to general curriculum planning and development, vertical articulation of curriculum, horizontal curriculum coordination, development of educational measurement practices for the school district, participation in assessment activities leading to certification by the national board for professional teaching standards, attendance at workshops and other programs for service as cooperating teachers for student teachers, development of plans for assisting beginning teachers during

CCS-2319

Page 18

their first year of teaching, attendance at summer staff development programs, development of staff development programs for other teachers to be presented during the school year, participation in family support programs, development of programs which provide instruction in conflict resolution and mediation techniques for staff and students, development of anger management instructional programs for students, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

For area education agencies, additional instructional work assignments may include but are not limited to providing assistance and support to school districts in general curriculum planning and development, providing assistance to school districts in vertical articulation of curriculum and horizontal curriculum coordination, development of educational measurement practices for school districts in the area education agency, development of plans for assisting beginning teachers during their first year of teaching, attendance or instruction at summer staff development programs, development of staff development programs for school district teachers to be presented during the school year, participation in family support programs, development of staff development programs which provide instruction in conflict resolution and mediation techniques, assisting school district teachers in the development of anger management instructional programs for students, and other plans determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the area education agency.

Sec. 32. NEW SECTION. 299.1B FAILURE TO ATTEND -- LOSS OF DRIVER'S LICENSE.

A person who does not attend a public school, an accredited

CCS-2319

Page 19

nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, adult education classes, or who is not employed at least twenty hours per week shall not receive a motor vehicle operator's license until age eighteen. A person under age eighteen who has been issued a motor vehicle operator's license who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, or adult education classes, shall surrender the license and be issued a temporary restricted license under section 321.215.

Sec. 33. Section 299.5A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The mediator may refer a truant to the juvenile court if mediation breaks down without an agreement being reached.

Sec. 34. NEW SECTION. 321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

Upon the entering of an order at the conclusion of a dispositional hearing under section 232.50, where the child has been adjudicated to have committed a delinquent act, which would be a first or subsequent violation of section 123.46, section 123.47 involving the purchase or attempt to purchase alcoholic beverages, or chapter 124, or a second or subsequent violation of section 123.47 regarding the possession of alcoholic beverages, the clerk of the juvenile court in the dispositional hearing shall forward a copy of the adjudication and dispositional order to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license as provided in section 321.215.

Sec. 35. NEW SECTION. 321.213B REVOCATION FOR FAILURE TO ATTEND.

The department shall establish procedures by rule for revoking the license of a juvenile who is in violation of



CCS-2319

Page 20

section 299.1B or issuing the juvenile a temporary restricted license under section 321.215 if the juvenile is employed at least twenty hours per week.

Sec. 36. Section 321A.17, subsection 5, Code Supplement 1993, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under section 321.209, subsection 8, section 321.210, subsection 1, paragraph "d", or section 321.210A, 321.213B, 321.216B, or 321.513, or following a period of suspension under section 321.194, is not required to maintain proof of financial responsibility under this section.

Sec. 37. Section 453A.2, Code 1993, is amended to read as follows:

453A.2 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age ~~and a~~

2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

2 3. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority against a permit holder violating this section.

3 4. Payment and distribution of court costs, fees, and fines in a prosecution initiated by a city or county shall be made as provided in chapter 602 for violation of a city or county ordinance.

Sec. 38. Section 453A.3, Code 1993, is amended to read as follows:

453A.3 PENALTY.

A person who violates section 453A.2, subsection 1 or 453A.39 is guilty of a simple misdemeanor.

CCS-2319

Page 21

A person who violates section 453A.2, subsection 2, shall pay a civil penalty pursuant to section 805.8, subsection 11. Failure to pay the civil penalty imposed for a violation of section 453A.2, subsection 2, is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.

Sec. 39. Section 602.7103, subsection 3, Code 1993, is amended to read as follows:

3. The parties to a ~~termination-of-parental-rights~~ proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, in the manner of an appeal from orders, findings, or decisions of district court judges. ~~The parties to any other proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, to the district court.~~ An appeal does not automatically stay the order, finding, or decision of an associate juvenile judge.

Sec. 40. Section 613.16, subsection 2, Code 1993, is amended to read as follows:

2. The legal obligation of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

- a. Not more than ~~one~~ two thousand dollars for any one act.
- b. Not more than ~~two~~ five thousand dollars, payable to the same claimant, for two or more acts.

Sec. 41. Section 702.18, Code 1993 is amended to read as follows:

702.18 SERIOUS INJURY.

"Serious injury" means disabling mental illness, or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, and includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years.

CCS-2319

Page 22

Sec. 42. Section 707.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The person kills a child while committing child endangerment under section 726.6, subsection 1, paragraph "b", or while committing assault under section 708.1 upon the child, and the death occurs under circumstances manifesting an extreme indifference to human life.

Sec. 43. NEW SECTION. 709C.1 SEXUALLY VIOLENT PREDATOR ACT.

This chapter shall be known as the "Sexually Violent Predator Act".

Sec. 44. NEW SECTION. 709C.2 DEFINITIONS.

As used in this chapter, unless the context clearly requires otherwise:

1. "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

2. "Predatory" means acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

3. "Sexually violent offense" means an act which is at least one of the following:

a. A public offense under section 709.2, 709.3, 709.4, 709.8, 709.11, 709.12, or 709.14.

b. Murder in the first degree or second degree under section 707.2 or 707.3, assault under section 708.1, domestic abuse assault under section 708.2A, kidnapping in the first degree or in the second degree under section 710.2 or 710.3, burglary or attempted burglary in the first degree under section 713.3 or 713.4, which is determined beyond a reasonable doubt at the time of sentencing or during civil commitment proceedings subsequent to the offense to have been sexually motivated.

c. A felony offense under federal law or the law of

CCS-2319

Page 23

another state which is equivalent to one of the offenses listed in paragraph "a" or "b".

d. A violation of chapter 705 or 706 regarding an offense listed in paragraph "a", "b", or "c".

4. "Sexually violent predator" means a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

Sec. 45. NEW SECTION. 709C.3 SEXUALLY VIOLENT PREDATOR PETITION.

1. The county attorney or the attorney general at the request of the county attorney, may file a petition alleging that a person is a sexually violent predator. The petition shall state sufficient facts to support the allegation.

2. A petition may be filed in the following circumstances:

a. The person has been convicted of, pled guilty to, or been adjudicated delinquent for committing a sexually violent offense.

b. The person has been found not guilty of a sexually violent offense by reason of insanity, or has been found incompetent to stand trial for allegedly committing a sexually violent offense.

c. The person is within ninety days of release from a facility to which the person was committed pursuant to the determination made in either paragraph "a" or "b".

Sec. 46. NEW SECTION. 709C.4 JUDICIAL DETERMINATION -- TRANSFER FOR EVALUATION.

Upon the filing of a petition under section 709C.3, if the court determines that probable cause exists to believe that the person named in the petition is a sexually violent predator the court shall transfer a person to an appropriate facility for evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct the examination pursuant to rules adopted by the department of

CCS-2319

Page 24

corrections in consultation with the department of human services and the criminal and juvenile justice planning division of the department of human rights.

Sec. 47. NEW SECTION. 709C.5 TRIAL -- RIGHTS OF PARTIES.

Not later than forty-five days after the filing of a petition pursuant to section 709C.3, the court shall conduct a trial to determine whether the person is a sexually violent predator. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist the person. If a person is subjected to an examination under this chapter, the person may retain experts or professional persons to perform an examination on the person's behalf. The person may be examined by a qualified expert or professional person of the person's choosing, and the expert or professional shall have reasonable access to the person for the purpose of the examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. The person, the county attorney or the attorney general, or the judge shall have the right to demand that the trial be before a jury, if the person is an adult or a juvenile who has been waived to the district court. If no demand is made, or if the person is a juvenile who has not been waived to the district court, the trial shall be to the court or the juvenile court as applicable.

Sec. 48. NEW SECTION. 709C.6 TRIAL -- DETERMINATION -- COMMITMENT PROCEDURES.

1. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated, the state shall prove beyond

CCS-2319

Page 25

a reasonable doubt that the alleged sexually violent act was sexually motivated. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of human services in a secure facility for control, care, and treatment until such time as the person's mental abnormality of personality disorder has so changed that the person is safe to be at large. This control, care, and treatment shall be provided at a facility operated by the department of human services, however, adults and juveniles shall not be sent to the same facility. If the court or jury does not find beyond a reasonable doubt that the person is a sexually violent predator, the court shall order the person to be released in accordance with the terms of the person's sentence.

2. If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released and the person's commitment is sought pursuant to subsection 1, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal due to incompetence that the person committed the act or acts charged. The hearing on this issue shall comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on the issue, the court finds

CCS-2319

Page 26

beyond a reasonable doubt that the person did commit the act charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

Sec. 49. NEW SECTION. 709C.7 ANNUAL EXAMINATIONS.

Each person committed under this chapter shall have a current examination of the person's mental condition made at least once every year. The person may retain, or if the person is indigent and so requests, the court may appoint, a qualified expert or a professional person to examine the person, and the expert or professional person shall have access to all records concerning the person. The periodic report shall be provided to the court that committed the person under this chapter.

Sec. 50. NEW SECTION. 709C.8 PETITION FOR RELEASE -- PROCEDURES.

1. If the director of the department of human services determines that the person's mental abnormality or personality disorder has so changed that the person is not likely to engage in predatory acts of sexual violence if released, the director shall authorize the person to petition the court for release. The petition shall be served upon the court and the county attorney. The court, upon receipt of the petition for release, shall order a hearing on the petition to be held not later than forty-five days after the date of service of the petition. The county attorney or the attorney general, if requested by the county attorney, shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the county attorney's or attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the state's counsel. The burden of proof shall be upon the county attorney or attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to engage in predatory acts

CCS-2319

Page 27

of sexual violence.

2. Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge without the approval of the director of the department of human services. The director shall provide the committed person with an annual written notice of the person's right to petition the court for release over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that the person is safe to be at large. The committed person shall have a right to have an attorney represent the person at the show cause hearing but the person is not entitled to be present at the show cause hearing. If the court at the show cause hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and is not likely to engage in predatory acts of sexual violence if discharged, the court shall set a hearing on the issue. At the hearing the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The county attorney or attorney general shall represent the state and shall have a right to request a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if released is likely to



CCS-2319

Page 28

engage in predatory acts of sexual violence.

Sec. 51. NEW SECTION. 709C.9 SUBSEQUENT PETITIONS.

Nothing in this chapter shall prohibit a person from filing a petition for discharge pursuant to this chapter. However, if a person has previously filed a petition for discharge without the approval of the director of the department of human services and the court has determined, either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the petitioner was safe to be at large, the court shall deny the subsequent petition unless the petition contains facts upon which a court could find that the condition of the petitioner has so changed that a hearing is warranted. Upon receipt of a first or subsequent petition from a committed person without the director's approval, the court shall review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

Sec. 52. NEW SECTION. 709C.10 RELEASE OF INFORMATION AUTHORIZED.

Notwithstanding any other provision to the contrary, the director of the department of human services is authorized to release relevant information that is necessary to protect the public, concerning a specific sexually violent predator committed under this chapter.

Sec. 53. NEW SECTION. 724.4A WEAPONS FREE ZONES -- ENHANCED PENALTIES.

1. As used in this section, "weapons free zone" means the area in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park. A weapons free zone shall not include that portion of a public park designated as a hunting area under section 461A.42.

2. Notwithstanding sections 902.9 and 903.1, a person who commits a public offense involving a firearm or offensive

CCS-2319

Page 29

weapon, within a weapons free zone, in violation of this or any other chapter shall be subject to a fine of twice the maximum amount which may otherwise be imposed for the public offense.

Sec. 54. Section 724.16, subsection 1, Code 1993, is amended to read as follows:

1. Except as otherwise provided in section 724.15, subsection 2, a person who acquires ownership of a pistol or revolver without a valid annual permit to acquire pistols or revolvers or a person who transfers ownership of a pistol or revolver to a person who does not have in the person's possession a valid annual permit to acquire pistols or revolvers is guilty of ~~a simple~~ an aggravated misdemeanor.

Sec. 55. NEW SECTION. 724.16A TRAFFICKING IN STOLEN WEAPONS.

A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits a class "D" felony for a first offense and a class "C" felony for second and subsequent offenses or if the weapon is used in the commission of a public offense. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.

Sec. 56. Section 724.22, subsections 1 and 2, Code 1993, are amended to read as follows:

1. Except as provided in subsection 3, a person who sells, loans, gives, or makes available a rifle or shotgun or ammunition for a rifle or shotgun to a minor commits a ~~simple~~ serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

2. Except as provided in subsections 4 and 5, a person who sells, loans, gives, or makes available a pistol or revolver or ammunition for a pistol or revolver to a person below the age of twenty-one commits a ~~simple~~ serious misdemeanor for a first offense and a class "D" felony for second and subsequent

CCS-2319

Page 30

offenses.

Sec. 57. Section 724.27, Code 1993, is amended to read as follows:

724.27 ~~EXCEPTION TO SECTIONS 724.8, SUBSECTION 2, 724.15, SUBSECTION 1, AND 724.26~~ OFFENDERS' RIGHTS RESTORED.

The provisions of sections 724.8, subsection 2, 724.15, subsection 1, paragraphs "b" and "e", and 724.26 shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored under section 914.7 and who is pardoned or has had the person's civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

Sec. 58. NEW SECTION. 724.30 RECKLESS USE OF A FIREARM.

A person who intentionally discharges a firearm in a reckless manner commits the following:

1. A class "C" felony if a serious injury occurs.
2. A class "D" felony if a bodily injury which is not a serious injury occurs.
3. An aggravated misdemeanor if property damage occurs without a serious injury or bodily injury occurring.
4. A simple misdemeanor if no injury to a person or damage to property occurs.

Sec. 59. NEW SECTION. 726.6B MULTIPLE ACTS OF CHILD ENDANGERMENT -- PENALTY.

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a mentally or physically handicapped minor, where one or more of the acts results in serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, a person convicted of a violation of this section shall be confined for no more than fifty years.

CCS-2319

Page 31

Sec. 60. Section 805.8, subsection 10, Code Supplement 1993, is amended to read as follows:

10. ALCOHOLIC BEVERAGE VIOLATIONS.

a. For violations of section 123.47A, which constitute first offenses as provided in that section, the scheduled fine is fifteen dollars.

b. For violations of section 123.49, subsection 2, paragraph "h", the scheduled fine is one hundred dollars.

Sec. 61. Section 805.8, subsection 11, Code Supplement 1993, is amended to read as follows:

11. SMOKING VIOLATIONS. For violations of section 142B.6 or 453A.2, subsection 2, the scheduled fine is twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil fine penalty assessed for a violation of section 142B.6 is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

For failing to pay the civil penalty under section 453A.2, the scheduled fine is twenty-five dollars. Failure to pay the scheduled fine shall not result in the person being detained in a secure facility. The complainant shall not be charged a filing fee.

Sec. 62. Section 808A.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a search pursuant to subsection 1 of a school locker, desk, or other facility or space issued or assigned to, or chosen by a student, reveals a violation of the law or the rules of the school regarding a dangerous weapon or controlled substance, the violation shall constitute reasonable grounds for future searches without advance notice to the student of the student's school locker, desk, or other

CCS-2319

Page 32

facility or space issued or assigned to, or chosen by the student.

Sec. 63. Section 808B.9, Code 1993, is amended to read as follows:

808B.9 REPEAL.

This chapter is repealed effective July 1, 1994 1999.

Sec. 64. Section 914.7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this chapter, a person seventeen years of age or younger who commits a public offense involving a firearm which is an aggravated misdemeanor against a person or a felony shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

Sec. 65. JUVENILE DETENTION HOMES -- ADDITIONAL APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For additional reimbursement of counties for juvenile detention homes in accordance with the provisions of this section, and in order to effectuate the purposes of this Act pertaining to the detention of children who habitually and substantially violate the conditions of probation:

..... \$ 362,500

If the funds designated in this section, in addition to any other appropriation to the department of human services for reimbursement of counties for juvenile detention homes in the fiscal year beginning July 1, 1994, are insufficient to pay ten percent of the total cost of the homes, notwithstanding section 232.142, subsection 3, the state payment shall be less than ten percent and the department shall prorate the state payment as necessary to keep expenditures within the funds

CCS-2319

Page 33

designated in this section and in any other provision appropriating moneys to the department for reimbursement of counties for juvenile detention homes in the same fiscal year.

Sec. 66. APPROPRIATION -- TRANSFER. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, \$362,500 shall be appropriated from the general fund to the governor's alliance on substance abuse to provide one-time grants to community-based correctional programs for replication of the youthful offender program established in Polk county. The governor's alliance on substance abuse may provide a one-time grant of up to \$100,000 to each eligible community-based correctional program, which applies for a grant for a proposal for replication of the youthful offender program to the governor's alliance on substance abuse by September 1, 1994. The governor's alliance on substance abuse shall submit a report to the general assembly regarding the distribution of these funds by January 15, 1995.

Sec. 67. APPROPRIATION -- TRUANCY AND SCHOOL BEHAVIORAL PROBLEMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For school-based programs addressing truancy and school behavioral problems pursuant to section 232.192, subsection 2, as enacted in this Act:

..... \$ 200,000

Sec. 68. APPROPRIATION -- VIOLENCE PREVENTION CURRICULUM. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the following purpose:

For implementation of a statewide violence prevention program pursuant to section 280.9B, as enacted in this Act:

..... \$ 75,000

CCS-2319

Page 34

Sec. 69. APPROPRIATION -- HIGHLY STRUCTURED JUVENILE PROGRAMS. The department of human services and the division of criminal and juvenile justice planning of the department of human rights shall develop two 25-bed highly structured treatment-oriented programs for youths who are adjudicated delinquent, one of which shall be at an existing facility. The programs shall include a resident phase and follow-up services. Each program shall include goals for the functioning of youths following completion of the resident portion of the program, follow-up tracking, and evaluation activities during the resident and follow-up phases. At least one program shall include in its resident phase a regimen stressing discipline and physical activities. The department shall develop criteria for the resident phase and for admission to the program and for providing follow-up services to a child who successfully completes the resident phase. Follow-up services shall be community-based and designed to assist the child to live without supervision after the provision of follow-up services ends.

Funding for the program to be started at a new facility shall be provided from the appropriation to the department of human services for child and family services by the Seventy-fifth General Assembly, 1994 Session. This funding shall be contingent on the receipt of medical assistance funding for program participants.

Sec. 70. APPROPRIATION. There is appropriated from the general fund of the state in the community grant fund for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount or so much thereof as is necessary, to be used for the purposes of the community grant fund established in this Act:

..... \$ 1,800,000

Sec. 71. APPROPRIATION. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to

CCS-2319

Page 35

be used for the purpose designated:

For salaries, support, and maintenance, for the following additional juvenile court officers, and for not more than the following full-time equivalent positions:

.....	\$	190,000
.....	FTEs	6.00

The judicial department shall determine the location at which the additional juvenile court officers are to be placed.

Sec. 72. TRUANCY JUVENILE COURT OFFICERS. Contingent on a specific appropriation being made for this purpose, the judicial department shall add one additional juvenile court officer per judicial district for the purpose of handling truancy cases referred to the juvenile court under section 299.5A, as amended in this Act.

Sec. 73. STUDY. The division of criminal and juvenile justice planning of the department of human rights shall study and compare rates of recidivism and rehabilitation for similar offenses in juveniles adjudicated delinquent versus juveniles waived to and convicted of an offense in the district court and the frequency and severity of sanctions imposed upon juveniles by the juvenile court versus those imposed by the district court for juveniles waived to the district court for similar offenses. The division shall report the results of its study to the general assembly by January 15, 1995.

Sec. 74. EFFECTIVE DATES. Sections 43 through 52 take effect July 1, 1995.

Section 63 of this Act takes effect June 30, 1994."

2. Title page, by striking page 1, line 1, through Title page 2, line 19 and inserting the following: "An Act relating to juvenile justice by establishing or enhancing penalties for delinquent acts which may be committed by juveniles, establishing or enhancing penalties for public offenses relating to juvenile justice, authorizing searches of student lockers in a school without advance notice under certain circumstances, delaying the repeal of the interception of communications law, providing for the commitment of persons



CCS-2319

Page 36

determined to be sexually violent predators, and making related appropriations and providing effective dates."

ON THE PART OF THE SENATE:

ON THE PART OF THE HOUSE:

RALPH ROSENBERG, Chairperson  
ROBERT DVORSKY  
MICHAEL GRONSTAL  
O. GENE MADDOX  
MAGGIE TINSMAN

CLARK McNEAL, Chairperson  
PHIL BRAMMER  
MONA MARTIN  
WAYNE MCKINNEY  
BOB RAFFERTY

CCS-2319 FILED APRIL 18, 1994  
ADOPTED

*Adopted  
4/18/94 (p.1343)*

*Adopted  
4-18-94  
(p.1901)*

SENATE FILE 2319

AN ACT

RELATING TO JUVENILE JUSTICE BY ESTABLISHING OR ENHANCING PENALTIES FOR DELINQUENT ACTS WHICH MAY BE COMMITTED BY JUVENILES, ESTABLISHING OR ENHANCING PENALTIES FOR PUBLIC OFFENSES RELATING TO JUVENILE JUSTICE, AUTHORIZING SEARCHES OF STUDENT LOCKERS IN A SCHOOL WITHOUT ADVANCE NOTICE UNDER CERTAIN CIRCUMSTANCES, DELAYING THE REPEAL OF THE INTERCEPTION OF COMMUNICATIONS LAW, PROVIDING FOR THE COMMITMENT OF PERSONS DETERMINED TO BE SEXUALLY VIOLENT PREDATORS, AND MAKING RELATED APPROPRIATIONS AND PROVIDING EFFECTIVE DATES.

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

Section 1. Section 80B.11, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. JA. Within the existing curriculum, expand training regarding racial and cultural awareness and dealing with gang-affected youth.

Sec. 2. Section 123.47, Code 1993, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the

person upon demand, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter. A person, other than a licensee or permittee, who violates this section regarding the purchase or attempt to purchase of alcoholic liquor, wine, or beer shall pay a twenty-five dollar penalty.

Sec. 3. Section 123.47A, Code 1993, is amended to read as follows:

123.47A PERSONS AGE EIGHTEEN, NINETEEN, AND TWENTY -- PENALTY.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen, nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge, presence, and consent of the person's parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a second or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect

to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

2. For the purpose of determining if a violation charged is a second or subsequent offense, a conviction or plea of guilty to a violation of this section shall be counted as a previous offense.

Sec. 4. Section 123.49, subsection 2, paragraph h, Code 1993, is amended to read as follows:

h. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or having-reasonable cause-to-believe-the-person-to-be failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or having-reasonable-cause-to-believe-the-person-to-be failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

Sec. 5. Section 123.50, subsection 1, Code Supplement 1993, is amended to read as follows:

1. Any person who violates any of the provisions of section 123.49, except subsection 2, paragraph "h", shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph "h", commits a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

Sec. 6. Section 124.401A, Code 1993, is amended to read as follows:

124.401A ENHANCED PENALTY FOR DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes or possesses with intent to distribute a substance or counterfeit substance listed in schedule I<sub>1</sub> or II which-is-a-narcotic-or-cocaine, or III, or a simulated controlled substance represented to be a narcotic-or-cocaine controlled substance classified in schedule I<sub>1</sub> or II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, may, at the judge's discretion, be sentenced up to an additional term of confinement of five years.

Sec. 7. NEW SECTION. 124.401B POSSESSION OF CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY -- ADDITIONAL PENALTY.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

Sec. 8. Section 124.406, subsection 1, paragraphs a and b, Code 1993, are amended to read as follows:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II ~~which is a narcotic or cocaine~~, to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with the intent to distribute a controlled substance other than a narcotic or cocaine listed in schedule I, II, or III to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

Sec. 9. Section 124.406, subsection 2, paragraphs a and b, Code 1993, are amended to read as follows:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II which is a narcotic or cocaine, or a simulated controlled substance represented to be a narcotic or cocaine substance classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with intent to distribute a counterfeit substance other than a narcotic or cocaine listed in schedule I, II, or III, or a simulated controlled substance represented to be any substance listed in schedule I, II, or III, to a person under eighteen years of

age who is at least three years younger than the violator commits a class "C" felony.

Sec. 10. NEW SECTION. 124.406A USE OF PERSONS UNDER AGE EIGHTEEN IN THE DRUG TRADE.

It is unlawful for a person who is eighteen years of age or older to conspire with or recruit a person under the age of eighteen for the purpose of delivering or manufacturing a controlled substance classified in schedule I through IV. A person violating this section commits a class "C" felony.

Sec. 11. Section 124.415, Code 1993, is amended to read as follows:

124.415 PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile court the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A juvenile court officer may also notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 12. Section 232.2, subsection 22, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

- a. Conducting in-person interviews with the child and each parent, guardian, or other person having custody of the child.
- b. Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child.
- c. Interviewing any person providing medical, social, educational, or other services to the child.
- d. Obtaining first-hand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.
- e. Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

Sec. 13. Section 232.19, subsection 2, Code 1993, is amended to read as follows:

2. When a child is taken into custody as provided in subsection 1 the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. However, if the child is thirteen years of age or older, the child may be restrained by metal handcuffs only, for the purpose of transportation in a vehicle which is not equipped with a rear seat cage for prisoner transport and if the child is being taken into custody for an alleged delinquent act of violence against a person. The child may also be restrained by handcuffs or other restraints at any time after the child is taken into custody if the child has a known history of

physical violence to others. Unless the child is placed in shelter care or detention in accordance with the provisions of section 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

Sec. 14. Section 232.29, subsection 2, Code 1993, is amended to read as follows:

2. An informal adjustment agreement may prohibit a child from driving a motor vehicle for a specified period of time or under specific circumstances, require the child to perform a work assignment of value to the state or to the public, or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The juvenile court officer shall notify the state department of transportation of the informal adjustment prohibiting the child from driving.

Sec. 15. Section 232.42, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Proceedings may be continued for up to one year upon the request of the county attorney and the child to permit the making of probation arrangements prior to the adjudicatory hearing. If either the child or the county attorney requests that the adjudicatory hearing be held at any time during the period of the continuance, the court shall set the matter for hearing.

Sec. 16. Section 232.44, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the child is placed in a detention facility in a county other than the county in which the child resides or in which the delinquent act allegedly occurred but which is within the same judicial district, the hearing may take place in the county in which the detention facility is located. The child shall appear in person at the hearing required by this subsection.

Sec. 17. Section 232.44, subsection 7, Code 1993, is amended to read as follows:

7. If a child held in shelter care or detention by court order has not been released after a detention hearing or has not appeared at an adjudicatory hearing before the expiration of the order of detention, an additional hearing shall automatically be scheduled for the next court day following the expiration of the order. The child, the child's counsel, the child's guardian ad litem, and the child's parent, guardian or custodian shall be notified of this hearing not less than twenty-four hours before the hearing is scheduled to take place. The hearing required by this section may be held by telephone conference call.

Sec. 18. Section 232.45A, subsections 2 and 3, Code 1993, are amended to read as follows:

2. Once a child sixteen years of age or older has been waived to and convicted of a ~~forcible felony or a felony violation of section 124.401 or chapter 707~~ by the district court, all criminal proceedings against the child for any ~~forcible felony or a felony violation of section 124.401 or chapter 707~~ occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for a ~~forcible felony or a felony violation of section 124.401 or chapter 707~~ who has previously been waived to and convicted of such an offense by the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.

Sec. 19. Section 232.46, subsection 1, Code 1993, is amended to read as follows:

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include prohibiting a child from driving a motor vehicle for a specified period of time or under specific circumstances, or the supervision of the child by a juvenile court officer or other agency or person designated by the court, and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The court shall notify the state department of transportation of an order prohibiting the child from driving.

Sec. 20. Section 232.47, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A juvenile court officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the child attends of the child's adjudication for a delinquent act which would be an indictable offense if committed by an adult.

Sec. 21. Section 232.52, subsection 2, paragraph a, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The suspension of the motor vehicle license or operating privilege of the child for the commission of one or more delinquent acts which are a violation of section 123.46, section 123.47 regarding the purchase or attempt to purchase of alcoholic beverages, or chapter 124, or two or more delinquent acts which are a violation of section 123.47 regarding the possession of alcoholic beverages for a period of one year. The child may be issued a temporary restricted license or school license if the child is otherwise eligible.

Sec. 22. Section 232.52, subsection 2, paragraph c, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A parent or guardian may be required by the juvenile court to participate in educational or treatment programs as part of a probation plan if the court determines it to be in the best interest of the child. A parent or guardian who does not participate in the probation plan when required to do so by the court may be held in contempt.

Sec. 23. Section 232.78, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The juvenile court may enter an ex parte order directing a peace officer or a juvenile court officer to take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

Sec. 24. Section 232.79, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A peace officer or juvenile court officer may take a child into custody, or a physician treating a child may keep the child in custody, or a juvenile court officer may authorize a peace officer, physician, or medical security personnel to take a child into custody, without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

Sec. 25. Section 232.148, Code 1993, is amended to read as follows:

232.148 FINGERPRINTS -- PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal justice agency after the child is taken into custody.

2. Fingerprints and photographs of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency

investigating the commission of a public offense constituting a felony other than a simple or serious misdemeanor. However, fingerprint-and-photograph-files-of-a-child-who-enters-into-an-informal-adjustment-or-consent-decree-shall-be-retained-only-if-the-child-is-notified-at-the-time-of-entering-into-the-informal-adjustment-or-consent-decree-that-the-files-will-be-permanently-retained-by-the-criminal-justice-agency. The criminal justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system. However, unless otherwise authorized pursuant to section 232.45A or 690.4, or as otherwise authorized by law, a criminal history record shall not be created for inclusion in an automated system due to the retention of fingerprints pursuant to this section.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and-the-child-is-referred-to-the-court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court-for-disposition division of criminal investigation of the department of public safety in the manner and on the forms prescribed by the commissioner of public safety within two working days after the fingerprints are taken. If-the-child-is-not-referred-to-the-court After notification by the child or the child's representative that the child has not had a delinquency petition filed against the child or has not entered into an informal adjustment agreement, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

~~4. --Fingerprint-and-photograph-files-of-children-shall-be kept-separate-from-those-of-adults. --Copies-of-fingerprints and-photographs-of-a-child-shall-not-be-placed-in-any-data storage-system-established-and-maintained-by-the-department-of public-safety-pursuant-to-chapter-692, or-in-any-federal depository-for-fingerprints.~~

5 4. Fingerprint and photograph files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

6 5. Fingerprints and photographs of a child shall be removed from the file and destroyed if upon notification by the child's guardian ad litem or legal counsel to the department of public safety that any of the following situations apply:

a. A petition alleging the child to be delinquent is not filed and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question.

c. Upon petition by the child when the child reaches twenty-one years of age and the child has not been adjudicated a delinquent nor convicted of committing an aggravated misdemeanor or a felony after reaching sixteen years of age.

Sec. 26. Section 232.149, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Information regarding a child taken into custody for a violation of chapter 124 involving the possession of a controlled substance, counterfeit substance, or simulated controlled substance shall be disclosed in accordance with section 124.415.

Sec. 27. NEW SECTION. 232.190 COMMUNITY GRANT FUND.

1. A community grant fund is established in the state treasury under the control of the division of criminal and juvenile justice planning of the department of human rights for the purposes of awarding grants under this section. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall assist the division in administering grants awarded under this section. The department of human services shall advise the division on programs which meet the criteria established for grant recipients. Not more than one percent of the moneys appropriated to the fund shall be used for administrative purposes.

2. A city, county, or entity organized under chapter 28E may apply to the department for a grant on a matching basis to fund juvenile crime prevention programs. The match may come from funds provided to the city, county, or entity organized under chapter 28E from private sources, other state programs, or federal programs. A city, county, or entity organized under chapter 28E applying for a grant under this section is encouraged to seek matching funds from, but not limited to, the Iowa finance authority, the governor's alliance on substance abuse, and under the state and federal community reinvestment Acts. Applications shall state specific outcomes sought to be obtained under a program funded by a grant under this section.

3. Programs awarded moneys from the community grant fund shall involve a collaborative effort by all children and family support service providers to provide services and shall reflect a community-wide consensus in how to remediate community problems and may include programs dealing with truancy which involve school district and community partnerships, and programs involving judicial district community-based corrections programs. Services provided under the programs shall be comprehensive and utilize flexible



delivery systems. The department of human services shall establish a point system for determining eligibility for grants from the fund based upon the nature and breadth of the community juvenile crime prevention programs and the extent to which a community has sought to obtain additional public and private funding sources for all or parts of the community's program.

4. This section is repealed effective June 30, 1998. The division of criminal and juvenile justice planning and the department of human services shall submit a report to the general assembly by January 15, 1998, regarding the effectiveness of the programs funded under this section in meeting the objectives contained in subsection 3.

Sec. 28. NEW SECTION. 232.191 EARLY INTERVENTION AND FOLLOW-UP PROGRAMS.

Contingent on a specific appropriation for these purposes, the department shall do the following:

1. Develop or expand programs providing specific life skills and interpersonal skills training for adjudicated delinquent youth who pose a low or moderate risk to the community.
2. Develop or expand a school-based program addressing truancy and school behavioral problems for youth ages twelve through seventeen.
3. Develop or expand an intensive tracking and supervision program for adjudicated delinquent youth at risk for placement who have been released from resident facilities, which shall include telephonic or electronic tracking and monitoring and intervention by juvenile authorities.
4. Develop or expand supervised community treatment for adjudicated delinquent youth who experience significant problems and who constitute a moderate community risk.

Sec. 29. NEW SECTION. 280.9B VIOLENCE PREVENTION CURRICULUM.

The department of education shall develop a statewide violence prevention program based on law-related education. The department shall contract with a law-related education agency that serves the state and provides a comprehensive plan to develop violence prevention curricula for grades K through twelve, provide training to teachers and school administrators on violence prevention, and develop school-community partnerships for violence prevention.

Sec. 30. Section 280.19A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a district has not adopted a plan as required in this section and implemented the plan by January 15, 1996, the area education agency serving the district shall assist the district with developing a plan and an alternative options education program for the pupil. When a plan is developed, the district shall be responsible for the operation of the program and shall reimburse the area education agency for the actual costs incurred by the area education agency under this section.

Sec. 31. Section 294A.14, unnumbered paragraphs 9 and 10, Code Supplement 1993, are amended to read as follows:

For school districts, additional instructional work assignments may include but are not limited to general curriculum planning and development, vertical articulation of curriculum, horizontal curriculum coordination, development of educational measurement practices for the school district, participation in assessment activities leading to certification by the national board for professional teaching standards, attendance at workshops and other programs for service as cooperating teachers for student teachers, development of plans for assisting beginning teachers during their first year of teaching, attendance at summer staff development programs, development of staff development programs for other teachers to be presented during the school year, participation in family support programs, development of

programs which provide instruction in conflict resolution and mediation techniques for staff and students, development of anger management instructional programs for students, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

For area education agencies, additional instructional work assignments may include but are not limited to providing assistance and support to school districts in general curriculum planning and development, providing assistance to school districts in vertical articulation of curriculum and horizontal curriculum coordination, development of educational measurement practices for school districts in the area education agency, development of plans for assisting beginning teachers during their first year of teaching, attendance or instruction at summer staff development programs, development of staff development programs for school district teachers to be presented during the school year, participation in family support programs, development of staff development programs which provide instruction in conflict resolution and mediation techniques, assisting school district teachers in the development of anger management instructional programs for students, and other plans determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the area education agency.

Sec. 32. NEW SECTION. 299.1B FAILURE TO ATTEND -- LOSS OF DRIVER'S LICENSE.

A person who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, adult education classes, or who is not employed at least

twenty hours per week shall not receive a motor vehicle operator's license until age eighteen. A person under age eighteen who has been issued a motor vehicle operator's license who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, or adult education classes, shall surrender the license and be issued a temporary restricted license under section 321.215.

Sec. 33. Section 299.5A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The mediator may refer a truant to the juvenile court if mediation breaks down without an agreement being reached.

Sec. 34. NEW SECTION. 321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

Upon the entering of an order at the conclusion of a dispositional hearing under section 232.50, where the child has been adjudicated to have committed a delinquent act, which would be a first or subsequent violation of section 123.46, section 123.47 involving the purchase or attempt to purchase alcoholic beverages, or chapter 124, or a second or subsequent violation of section 123.47 regarding the possession of alcoholic beverages, the clerk of the juvenile court in the dispositional hearing shall forward a copy of the adjudication and dispositional order to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license as provided in section 321.215.

Sec. 35. NEW SECTION. 321.213B REVOCATION FOR FAILURE TO ATTEND.

The department shall establish procedures by rule for revoking the license of a juvenile who is in violation of section 299.1B or issuing the juvenile a temporary restricted license under section 321.215 if the juvenile is employed at least twenty hours per week.

Sec. 36. Section 321A.17, subsection 5, Code Supplement 1993, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under section 321.209, subsection 8, section 321.210, subsection 1, paragraph "d", or section 321.210A, 321.213B, 321.216B, or 321.513, or following a period of suspension under section 321.194, is not required to maintain proof of financial responsibility under this section.

Sec. 37. Section 453A.2, Code 1993, is amended to read as follows:

453A.2 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age and-a.

2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

3. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority against a permit holder violating this section.

4. Payment and distribution of court costs, fees, and fines in a prosecution initiated by a city or county shall be made as provided in chapter 602 for violation of a city or county ordinance.

Sec. 38. Section 453A.3, Code 1993, is amended to read as follows:

453A.3 PENALTY.

A person who violates section 453A.2, subsection 1 or 453A.39 is guilty of a simple misdemeanor.

A person who violates section 453A.2, subsection 2, shall pay a civil penalty pursuant to section 805.8, subsection 11.

Failure to pay the civil penalty imposed for a violation of section 453A.2, subsection 2, is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.

Sec. 39. Section 602.7103, subsection 3, Code 1993, is amended to read as follows:

3. The parties to a ~~termination-of-parental-rights~~ proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, in the manner of an appeal from orders, findings, or decisions of district court judges. ~~The parties to any other proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge to the district court.~~ An appeal does not automatically stay the order, finding, or decision of an associate juvenile judge.

Sec. 40. Section 613.16, subsection 2, Code 1993, is amended to read as follows:

2. The legal obligation of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

- a. Not more than one two thousand dollars for any one act.
- b. Not more than two thousand dollars, payable to the same claimant, for two or more acts.

Sec. 41. Section 702.18, Code 1993, is amended to read as follows:

702.18 SERIOUS INJURY.

"Serious injury" means disabling mental illness, or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, and includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years.

Sec. 42. Section 707.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The person kills a child while committing child endangerment under section 726.6, subsection 1, paragraph "b", or while committing assault under section 708.1 upon the child, and the death occurs under circumstances manifesting an extreme indifference to human life.

Sec. 43. NEW SECTION. 709C.1 SEXUALLY VIOLENT PREDATOR ACT.

This chapter shall be known as the "Sexually Violent Predator Act".

Sec. 44. NEW SECTION. 709C.2 DEFINITIONS.

As used in this chapter, unless the context clearly requires otherwise:

1. "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

2. "Predatory" means acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

3. "Sexually violent offense" means an act which is at least one of the following:

a. A public offense under section 709.2, 709.3, 709.4, 709.8, 709.11, 709.12, or 709.14.

b. Murder in the first degree or second degree under section 707.2 or 707.3, assault under section 708.1, domestic abuse assault under section 708.2A, kidnapping in the first degree or in the second degree under section 710.2 or 710.3, burglary or attempted burglary in the first degree under section 713.3 or 713.4, which is determined beyond a reasonable doubt at the time of sentencing or during civil commitment proceedings subsequent to the offense to have been sexually motivated.

c. A felony offense under federal law or the law of another state which is equivalent to one of the offenses listed in paragraph "a" or "b".

d. A violation of chapter 705 or 706 regarding an offense listed in paragraph "a", "b", or "c".

4. "Sexually violent predator" means a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

Sec. 45. NEW SECTION. 709C.3 SEXUALLY VIOLENT PREDATOR PETITION.

1. The county attorney or the attorney general at the request of the county attorney, may file a petition alleging that a person is a sexually violent predator. The petition shall state sufficient facts to support the allegation.

2. A petition may be filed in the following circumstances:

a. The person has been convicted of, pled guilty to, or been adjudicated delinquent for committing a sexually violent offense.

b. The person has been found not guilty of a sexually violent offense by reason of insanity, or has been found incompetent to stand trial for allegedly committing a sexually violent offense.

c. The person is within ninety days of release from a facility to which the person was committed pursuant to the determination made in either paragraph "a" or "b".

Sec. 46. NEW SECTION. 709C.4 JUDICIAL DETERMINATION -- TRANSFER FOR EVALUATION.

Upon the filing of a petition under section 709C.3, if the court determines that probable cause exists to believe that the person named in the petition is a sexually violent predator the court shall transfer a person to an appropriate facility for evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a

person deemed to be professionally qualified to conduct the examination pursuant to rules adopted by the department of corrections in consultation with the department of human services and the criminal and juvenile justice planning division of the department of human rights.

Sec. 47. NEW SECTION. 709C.5 TRIAL -- RIGHTS OF PARTIES.

Not later than forty-five days after the filing of a petition pursuant to section 709C.3, the court shall conduct a trial to determine whether the person is a sexually violent predator. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist the person. If a person is subjected to an examination under this chapter, the person may retain experts or professional persons to perform an examination on the person's behalf. The person may be examined by a qualified expert or professional person of the person's choosing, and the expert or professional shall have reasonable access to the person for the purpose of the examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. The person, the county attorney or the attorney general, or the judge shall have the right to demand that the trial be before a jury, if the person is an adult or a juvenile who has been waived to the district court. If no demand is made, or if the person is a juvenile who has not been waived to the district court, the trial shall be to the court or the juvenile court as applicable.

Sec. 48. NEW SECTION. 709C.6 TRIAL -- DETERMINATION -- COMMITMENT PROCEDURES.

1. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator.

If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated, the state shall prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of human services in a secure facility for control, care, and treatment until such time as the person's mental abnormality of personality disorder has so changed that the person is safe to be at large. This control, care, and treatment shall be provided at a facility operated by the department of human services, however, adults and juveniles shall not be sent to the same facility. If the court or jury does not find beyond a reasonable doubt that the person is a sexually violent predator, the court shall order the person to be released in accordance with the terms of the person's sentence.

2. If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released and the person's commitment is sought pursuant to subsection 1, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal due to incompetence that the person committed the act or acts charged. The hearing on this issue shall comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to

testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on the issue, the court finds beyond a reasonable doubt that the person did commit the act charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

Sec. 49. NEW SECTION. 709C.7 ANNUAL EXAMINATIONS.

Each person committed under this chapter shall have a current examination of the person's mental condition made at least once every year. The person may retain, or if the person is indigent and so requests, the court may appoint, a qualified expert or a professional person to examine the person, and the expert or professional person shall have access to all records concerning the person. The periodic report shall be provided to the court that committed the person under this chapter.

Sec. 50. NEW SECTION. 709C.8 PETITION FOR RELEASE -- PROCEDURES.

1. If the director of the department of human services determines that the person's mental abnormality or personality disorder has so changed that the person is not likely to engage in predatory acts of sexual violence if released, the director shall authorize the person to petition the court for release. The petition shall be served upon the court and the county attorney. The court, upon receipt of the petition for release, shall order a hearing on the petition to be held not later than forty-five days after the date of service of the petition. The county attorney or the attorney general, if requested by the county attorney, shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the county attorney's or attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the state's counsel.

The burden of proof shall be upon the county attorney or attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to engage in predatory acts of sexual violence.

2. Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge without the approval of the director of the department of human services. The director shall provide the committed person with an annual written notice of the person's right to petition the court for release over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that the person is safe to be at large. The committed person shall have a right to have an attorney represent the person at the show cause hearing but the person is not entitled to be present at the show cause hearing. If the court at the show cause hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and is not likely to engage in predatory acts of sexual violence if discharged, the court shall set a hearing on the issue. At the hearing the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The county attorney or attorney general shall represent the state and shall have a right to request a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's

behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if released is likely to engage in predatory acts of sexual violence.

Sec. 51. NEW SECTION. 709C.9 SUBSEQUENT PETITIONS.

Nothing in this chapter shall prohibit a person from filing a petition for discharge pursuant to this chapter. However, if a person has previously filed a petition for discharge without the approval of the director of the department of human services and the court has determined, either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the petitioner was safe to be at large, the court shall deny the subsequent petition unless the petition contains facts upon which a court could find that the condition of the petitioner has so changed that a hearing is warranted. Upon receipt of a first or subsequent petition from a committed person without the director's approval, the court shall review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

Sec. 52. NEW SECTION. 709C.10 RELEASE OF INFORMATION AUTHORIZED.

Notwithstanding any other provision to the contrary, the director of the department of human services is authorized to release relevant information that is necessary to protect the public, concerning a specific sexually violent predator committed under this chapter.

Sec. 53. NEW SECTION. 724.4A WEAPONS FREE ZONES -- ENHANCED PENALTIES.

1. As used in this section, "weapons free zone" means the area in or on, or within one thousand feet of, the real

property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park. A weapons free zone shall not include that portion of a public park designated as a hunting area under section 461A.42.

2. Notwithstanding sections 902.9 and 901.1, a person who commits a public offense involving a firearm or offensive weapon, within a weapons free zone, in violation of this or any other chapter shall be subject to a fine of twice the maximum amount which may otherwise be imposed for the public offense.

Sec. 54. Section 724.16, subsection 1, Code 1993, is amended to read as follows:

1. Except as otherwise provided in section 724.15, subsection 2, a person who acquires ownership of a pistol or revolver without a valid annual permit to acquire pistols or revolvers or a person who transfers ownership of a pistol or revolver to a person who does not have in the person's possession a valid annual permit to acquire pistols or revolvers is guilty of a ~~simple~~ an aggravated misdemeanor.

Sec. 55. NEW SECTION. 724.16A TRAFFICKING IN STOLEN WEAPONS.

A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits a class "D" felony for a first offense and a class "C" felony for second and subsequent offenses or if the weapon is used in the commission of a public offense. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.

Sec. 56. Section 724.22, subsections 1 and 2, Code 1993, are amended to read as follows:

1. Except as provided in subsection 3, a person who sells, loans, gives, or makes available a rifle or shotgun or

ammunition for a rifle or shotgun to a minor commits a simple serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

2. Except as provided in subsections 4 and 5, a person who sells, loans, gives, or makes available a pistol or revolver or ammunition for a pistol or revolver to a person below the age of twenty-one commits a simple serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

Sec. 57. Section 724.27, Code 1993, is amended to read as follows:

724.27 EXCEPTION TO SECTIONS 724.8, SUBSECTION 2, 724.15, SUBSECTION 1, AND 724.26 OFFENDERS' RIGHTS RESTORED.

The provisions of sections 724.8, subsection 2, 724.15, subsection 1, paragraphs "b" and "e", and 724.26 shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored under section 914.7 and who is pardoned or has had the person's civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

Sec. 58. NEW SECTION. 724.30 RECKLESS USE OF A FIREARM.

A person who intentionally discharges a firearm in a reckless manner commits the following:

1. A class "C" felony if a serious injury occurs.
2. A class "D" felony if a bodily injury which is not a serious injury occurs.
3. An aggravated misdemeanor if property damage occurs without a serious injury or bodily injury occurring.
4. A simple misdemeanor if no injury to a person or damage to property occurs.

Sec. 59. NEW SECTION. 726.6B MULTIPLE ACTS OF CHILD ENDANGERMENT -- PENALTY.

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a mentally or physically handicapped minor, where one or more of the acts results in serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, a person convicted of a violation of this section shall be confined for no more than fifty years.

Sec. 60. Section 805.8, subsection 10, Code Supplement 1993, is amended to read as follows:

10. ALCOHOLIC BEVERAGE VIOLATIONS.

a. For violations of section 123.47A, which constitute first offenses as provided in that section, the scheduled fine is fifteen dollars.

b. For violations of section 123.49, subsection 2, paragraph "h", the scheduled fine is one hundred dollars.

Sec. 61. Section 805.8, subsection 11, Code Supplement 1993, is amended to read as follows:

11. SMOKING VIOLATIONS. For violations of section 142B.6 or 453A.2, subsection 2, the scheduled fine is twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil fine penalty assessed for a violation of section 142B.6 is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

For failing to pay the civil penalty under section 453A.2, the scheduled fine is twenty-five dollars. Failure to pay the scheduled fine shall not result in the person being detained



in a secure facility. The complainant shall not be charged a filing fee.

Sec. 62. Section 808A.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a search pursuant to subsection 1 of a school locker, desk, or other facility or space issued or assigned to, or chosen by a student, reveals a violation of the law or the rules of the school regarding a dangerous weapon or controlled substance, the violation shall constitute reasonable grounds for future searches without advance notice to the student of the student's school locker, desk, or other facility or space issued or assigned to, or chosen by the student.

Sec. 63. Section 808B.9, Code 1993, is amended to read as follows:

**808B.9 REPEAL.**

This chapter is repealed effective July 1, ~~1994~~ 1999.

Sec. 64. Section 914.7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this chapter, a person seventeen years of age or younger who commits a public offense involving a firearm which is an aggravated misdemeanor against a person or a felony shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

Sec. 65. JUVENILE DETENTION HOMES -- ADDITIONAL APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For additional reimbursement of counties for juvenile detention homes in accordance with the provisions of this

section, and in order to effectuate the purposes of this Act pertaining to the detention of children who habitually and substantially violate the conditions of probation:

..... \$ 362,500

If the funds designated in this section, in addition to any other appropriation to the department of human services for reimbursement of counties for juvenile detention homes in the fiscal year beginning July 1, 1994, are insufficient to pay ten percent of the total cost of the homes, notwithstanding section 232.142, subsection 3, the state payment shall be less than ten percent and the department shall prorate the state payment as necessary to keep expenditures within the funds designated in this section and in any other provision appropriating moneys to the department for reimbursement of counties for juvenile detention homes in the same fiscal year.

Sec. 66. APPROPRIATION -- TRANSFER. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, \$362,500 shall be appropriated from the general fund to the governor's alliance on substance abuse to provide one-time grants to community-based correctional programs for replication of the youthful offender program established in Polk county. The governor's alliance on substance abuse may provide a one-time grant of up to \$100,000 to each eligible community-based correctional program, which applies for a grant for a proposal for replication of the youthful offender program to the governor's alliance on substance abuse by September 1, 1994. The governor's alliance on substance abuse shall submit a report to the general assembly regarding the distribution of these funds by January 15, 1995.

Sec. 67. APPROPRIATION -- TRUANCY AND SCHOOL BEHAVIORAL PROBLEMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For school-based programs addressing truancy and school behavioral problems pursuant to section 232.191, subsection 2, as enacted in this Act:

..... \$ 200,000

Sec. 68. APPROPRIATION -- VIOLENCE PREVENTION CURRICULUM. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the following purpose:

For implementation of a statewide violence prevention program pursuant to section 280.9B, as enacted in this Act:

..... \$ 75,000

Sec. 69. APPROPRIATION -- HIGHLY STRUCTURED JUVENILE PROGRAMS. The department of human services and the division of criminal and juvenile justice planning of the department of human rights shall develop two 25-bed highly structured treatment-oriented programs for youths who are adjudicated delinquent, one of which shall be at an existing facility. The programs shall include a resident phase and follow-up services. Each program shall include goals for the functioning of youths following completion of the resident portion of the program, follow-up tracking, and evaluation activities during the resident and follow-up phases. At least one program shall include in its resident phase a regimen stressing discipline and physical activities. The department shall develop criteria for the resident phase and for admission to the program and for providing follow-up services to a child who successfully completes the resident phase. Follow-up services shall be community-based and designed to assist the child to live without supervision after the provision of follow-up services ends.

Funding for the program to be started at a new facility shall be provided from the appropriation to the department of human services for child and family services by the Seventy-

fifth General Assembly, 1994 Session. This funding shall be contingent on the receipt of medical assistance funding for program participants.

Sec. 70. APPROPRIATION. There is appropriated from the general fund of the state in the community grant fund for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount or so much thereof as is necessary, to be used for the purposes of the community grant fund established in this Act:

..... \$ 1,800,000

Sec. 71. APPROPRIATION. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, and maintenance, for the following additional juvenile court officers, and for not more than the following full-time equivalent positions:

..... \$ 190,000  
..... FTEs 6.00

The judicial department shall determine the location at which the additional juvenile court officers are to be placed.

Sec. 72. TRUANCY JUVENILE COURT OFFICERS. Contingent on a specific appropriation being made for this purpose, the judicial department shall add one additional juvenile court officer per judicial district for the purpose of handling truancy cases referred to the juvenile court under section 299.5A, as amended in this Act.

Sec. 73. STUDY. The division of criminal and juvenile justice planning of the department of human rights shall study and compare rates of recidivism and rehabilitation for similar offenses in juveniles adjudicated delinquent versus juveniles waived to and convicted of an offense in the district court and the frequency and severity of sanctions imposed upon juveniles by the juvenile court versus those imposed by the

district court for juveniles waived to the district court for similar offenses. The division shall report the results of its study to the general assembly by January 15, 1995.

Sec. 74. EFFECTIVE DATES. Sections 43 through 52 take effect July 1, 1995.

Section 63 of this Act takes effect June 30, 1994.

---

LEONARD L. BOSWELL  
President of the Senate

---

HAROLD VAN MAANEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2319 Seventy-fifth General Assembly.

---

JOHN F. DWYER  
Secretary of the Senate

Approved May 12, 1994

---

TERRY E. BRANSTAD  
Governor