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SENATE FILE 2435

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2298)

Passed Senate, ^(p.755) Date 3/13/96

Passed House, Date _____

Vote: Ayes 49 Nays 0

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to shared jurisdiction by the juvenile and adult
2 courts over juveniles who commit certain public offenses and
3 making penalties applicable.

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

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S.F. 2435

1 Section 1. Section 232.8, subsection 3, Code Supplement
2 1995, is amended to read as follows:

3 3. The juvenile court, after a hearing and in accordance
4 with the provisions of section 232.45, may waive jurisdiction
5 of a child alleged to have committed a public offense so that
6 the child may be prosecuted as an adult or youthful offender
7 for such offense in another court. If the child, except a
8 child being prosecuted as a youthful offender, pleads guilty
9 or is found guilty of a public offense in another court of
10 this state that court may, with the consent of the child,
11 defer judgment and without regard to restrictions placed upon
12 deferred judgments for adults, place the child on probation
13 for a period not less than one year upon such conditions as it
14 may require. Upon fulfillment of the conditions of probation
15 the child shall be discharged without entry of judgment.

16 Sec. 2. NEW SECTION. 232.23 DETENTION -- YOUTHFUL
17 OFFENDERS.

18 1. After waiver of a child who will be prosecuted as a
19 youthful offender, the child shall be held in a facility under
20 section 232.22, subsection 2, paragraph "a" or "b", unless
21 released in accordance with subsection 2.

22 2. a. The court shall determine, at the detention hearing
23 under section 232.44, the amount of bail, appearance bond, or
24 other conditions necessary for a child who has been waived for
25 prosecution as a youthful offender to be released from
26 detention or that the child should not be released from
27 detention.

28 b. A child placed in detention or released under this
29 subsection shall be supervised by a juvenile court officer or
30 juvenile court services personnel.

31 c. An order under this section may be reviewed by the
32 court upon motion of either party.

33 Sec. 3. Section 232.44, Code Supplement 1995, is amended
34 to read as follows:

35 232.44 DETENTION OR SHELTER CARE HEARING -- RELEASE FROM

1 DETENTION UPON CHANGE OF CIRCUMSTANCE.

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

12 If the child is placed in a detention facility in a county
13 other than the county in which the child resides or in which
14 the delinquent act allegedly occurred but which is within the
15 same judicial district, the hearing may take place in the
16 county in which the detention facility is located. The child
17 shall appear in person at the hearing required by this
18 subsection.

19 2. The county attorney or a juvenile court officer may
20 apply for a hearing at any time after the petition is filed to
21 determine whether the child who is the subject of the petition
22 should be placed in detention or shelter care. The court may
23 upon the application or upon its own motion order such
24 hearing. The court shall order a detention hearing for a
25 child waived under section 232.45, subsection 6A, at the time
26 of waiver.

27 3. A notice shall be served upon the child, the child's
28 attorney, the child's guardian ad litem if any, and the
29 child's known parent, guardian, or custodian not less than
30 twelve hours before the time the hearing is scheduled to begin
31 and in a manner calculated fairly to apprise the parties of
32 the time, place, and purpose of the hearing. In the case of a
33 hearing for a child waived for prosecution as a youthful
34 offender, this notice may accompany the waiver order. If the
35 court finds that there has been reasonably diligent effort to

1 give notice to a parent, guardian, or custodian and that the
2 effort has been unavailing, the hearing may proceed without
3 the notice having been served.

4 4. At the hearing to determine whether detention or
5 shelter care is authorized under section 232.21 or 232.22 the
6 court shall admit only testimony and other evidence relevant
7 to the determination of whether there is probable cause to
8 believe the child has committed the act as alleged in the
9 petition and to the determination of whether the placement of
10 the child in detention or shelter care is authorized under
11 section 232.21 or 232.22. At the hearing to determine whether
12 a child who has been waived for prosecution as a youthful
13 offender should be released from detention the court shall
14 also admit evidence of the kind admissible to determine bond
15 or bail under chapter 811.1, notwithstanding section 811.1.
16 Any written reports or records made available to the court at
17 the hearing shall be made available to the parties. A copy of
18 the petition or waiver order shall be given to each of the
19 parties at or before the hearing.

20 5. The court shall find release to be proper under the
21 following circumstances:

22 a. If the court finds that there is not probable cause to
23 believe that the child is a child within the jurisdiction of
24 the court under this chapter, it shall release the child and
25 dismiss the petition.

26 b. If the court finds that detention or shelter care is
27 not authorized under section 232.21 or 232.22, or is
28 authorized but not warranted in a particular case, the court
29 shall order the child's release, and in so doing, may impose
30 one or more of the following conditions:

31 (1) Place the child in the custody of a parent, guardian
32 or custodian under that person's supervision, or under the
33 supervision of an organization which agrees to supervise the
34 child.

35 (2) Place restrictions on the child's travel, association,

1 or place of residence during the period of release.

2 (3) Impose any other condition deemed reasonably necessary
3 and consistent with the grounds for detaining children
4 specified in section 232.21 or 232.22, including a condition
5 requiring that the child return to custody as required.

6 (4) In the case of a child waived for prosecution as a
7 youthful offender, require bail, an appearance bond, or set
8 other conditions consistent with this section or section
9 811.2.

10 c. An order releasing a child on conditions specified in
11 this section may be amended at any time to impose equally or
12 less restrictive conditions. The order may be amended to
13 impose additional or more restrictive conditions, or to revoke
14 the release, if the child has failed to conform to the
15 conditions originally imposed.

16 6. If the court finds that there is probable cause to
17 believe that the child is within the jurisdiction of the court
18 under this chapter and that full-time detention or shelter
19 care is authorized under section 232.21 or 232.22 or that
20 detention is authorized under section 232.23, it may issue an
21 order authorizing either shelter care or detention until the
22 adjudicatory hearing or trial is held or for a period not
23 exceeding seven days whichever is shorter. However, in the
24 case of a child placed in detention under section 232.23, this
25 period may be extended by agreement of the parties and the
26 court.

27 7. If a child held in shelter care or detention by court
28 order has not been released after a detention hearing or has
29 not appeared at an adjudicatory hearing before the expiration
30 of the order of detention, an additional hearing shall
31 automatically be scheduled for the next court day following
32 the expiration of the order. The child, the child's counsel,
33 the child's guardian ad litem, and the child's parent,
34 guardian or custodian shall be notified of this hearing not
35 less than twenty-four hours before the hearing is scheduled to

1 take place. The hearing required by this subsection may be
2 held by telephone conference call.

3 8. A child held in a detention or shelter care facility
4 pursuant to section 232.21 or 232.22 under order of court
5 after a hearing may be released upon a showing that a change
6 of circumstances makes continued detention unnecessary.

7 9. A written request for the release of the child, setting
8 forth the changed circumstances, may be filed by the child, by
9 a responsible adult on the child's behalf, by the child's
10 custodian, or by the juvenile court officer.

11 10. Based upon the facts stated in the request for release
12 the court may grant or deny the request without a hearing, or
13 may order that a hearing be held at a date, time and place
14 determined by the court. Notice of the hearing shall be given
15 to the child and the child's custodian or counsel. Upon
16 receiving evidence at the hearing, the court may release the
17 child to the child's custodian or other suitable person, or
18 may deny the request and remand the child to the detention or
19 shelter care facility.

20 11. This section does not apply to a child placed in
21 accordance with section 232.78, 232.79, or 232.95.

22 Sec. 4. Section 232.45, subsection 1, Code 1995, is
23 amended to read as follows:

24 1. After the filing of a petition which alleges that a
25 child has committed a delinquent act on the basis of an
26 alleged commission of a public offense and before an
27 adjudicatory hearing on the merits of the petition is held,
28 the county attorney or the child may file a motion requesting
29 the court to waive its jurisdiction over the child for the
30 alleged commission of the public offense. If the county
31 attorney and the child agree, a motion for waiver for the
32 purpose of being prosecuted as a youthful offender may be
33 heard by the court which will have jurisdiction over the
34 criminal proceedings involving the child.

35 Sec. 5. Section 232.45, Code 1995, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 6A. At the conclusion of the waiver
3 hearing and after considering the best interests of the child
4 and the best interests of the community the court may, in
5 order that the child may be prosecuted as a youthful offender,
6 waive its jurisdiction over the child if all of the following
7 apply:

8 a. The child is fifteen years of age or younger.

9 b. The court determines, or has previously determined in a
10 detention hearing under section 232.44, that there is probable
11 cause to believe that the child has committed a delinquent act
12 which would constitute a public offense under section 232.8,
13 subsection 1, paragraph "c", notwithstanding the application
14 of that paragraph to children aged sixteen or older.

15 c. The court determines that the state has established
16 that there are not reasonable prospects for rehabilitating the
17 child, prior to the child's eighteenth birthday, if the
18 juvenile court retains jurisdiction over the child and the
19 child enters into a plea agreement, is a party to a consent
20 decree, or is adjudicated to have committed the delinquent
21 act.

22 The court shall retain jurisdiction over the child for the
23 purpose of determining whether the child should be released
24 from detention under section 232.23.

25 Sec. 6. Section 232.45, Code 1995, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 7A. In making the determination required
28 by subsection 6A, paragraph "c", the factors which the court
29 shall consider include but are not limited to the following:

30 a. The nature of the alleged delinquent act and the
31 circumstances under which it was committed.

32 b. The nature and extent of the child's prior contacts
33 with juvenile authorities, including past efforts of such
34 authorities to treat and rehabilitate the child and the
35 response to such efforts.

1 c. The age of the child, the programs, facilities, and
2 personnel available to the juvenile court for rehabilitation
3 and treatment of the child, and the programs, facilities, and
4 personnel which would be available to the district court after
5 the child reaches the age of eighteen in the event the child
6 is given youthful offender status.

7 Sec. 7. Section 232.45, subsection 10, Code 1995, is
8 amended to read as follows:

9 10. If the court waives its jurisdiction over the child
10 for the alleged commission of the public offense so that the
11 child may be prosecuted as an adult or a youthful offender,
12 the judge who made the waiver decision shall not preside at
13 any subsequent proceedings in connection with that prosecution
14 if the child objects.

15 Sec. 8. Section 232.45A, Code Supplement 1995, is amended
16 by adding the following new subsection:

17 NEW SUBSECTION. 4. This section shall not apply to a
18 child who was waived to the district court for the purpose of
19 being prosecuted as a youthful offender.

20 Sec. 9. Section 232.50, subsection 1, Code 1995, is
21 amended to read as follows:

22 1. As soon as practicable following the entry of an order
23 of adjudication pursuant to section 232.47 or notification
24 that the child has received a youthful offender deferred
25 sentence pursuant to section 907.3A, the court shall hold a
26 dispositional hearing in order to determine what disposition
27 should be made of the matter.

28 Sec. 10. Section 232.52, subsection 1, Code Supplement
29 1995, is amended to read as follows:

30 1. Pursuant to a hearing as provided in section 232.50,
31 the court shall enter the least restrictive dispositional
32 order appropriate in view of the seriousness of the delinquent
33 act, the child's culpability as indicated by the circumstances
34 of the particular case, the age of the child, and the child's
35 prior record, or the fact that the child has received a

1 youthful offender deferred sentence under section 907.3A. The
2 order shall specify the duration and the nature of the
3 disposition, including the type of residence or confinement
4 ordered and the individual, agency, department or facility in
5 whom custody is vested. In the case of a child who has
6 received a youthful offender deferred sentence, the initial
7 duration of the dispositional order shall be until the child
8 reaches the age of eighteen.

9 Sec. 11. Section 232.54, Code Supplement 1995, is amended
10 by adding the following new subsections:

11 NEW SUBSECTION. 7. With respect to a juvenile court
12 dispositional order entered regarding a child who has received
13 a youthful offender deferred sentence under section 907.3A,
14 the dispositional order may be terminated prior to the child
15 reaching the age of eighteen upon motion of the child, the
16 person or agency to whom custody of the child has been
17 transferred, or the county attorney following a hearing before
18 the juvenile court if it is shown by clear and convincing
19 evidence that it is in the best interests of the child and the
20 community to terminate the order. The district court shall
21 discharge the child's youthful offender status upon receiving
22 a termination order under this section.

23 NEW SUBSECTION. 8. With respect to a dispositional order
24 entered regarding a child who has received a youthful offender
25 deferred sentence under section 907.3A, the juvenile court
26 may, in the case of a child who violates the terms of the
27 order, modify or terminate the order in accordance with the
28 following:

29 a. After notice and hearing at which the facts of the
30 child's violation of the terms of the order are found, the
31 juvenile court may refuse to modify the order, modify the
32 order and impose a more restrictive order, or, after an
33 assessment of the child by a juvenile court officer in
34 consultation with the judicial district department of
35 correctional services and if the child is age fourteen or

1 over, terminate the order and return the child to the
2 supervision of the district court under chapter 907.

3 b. The juvenile court shall only terminate an order under
4 this subsection if after considering the best interests of the
5 child and the best interests of the community the court finds
6 that the child should be returned to the supervision of the
7 district court.

8 c. A youthful offender over whom the juvenile court has
9 terminated the dispositional order under this subsection shall
10 be treated in the manner of an adult who has been arrested for
11 a violation of probation under section 908.11 for sentencing
12 purposes only.

13 Sec. 12. Section 232.55, Code 1995, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. This section does not apply to
16 dispositional orders entered regarding a child who has
17 received a youthful offender deferred sentence under section
18 907.3A who is not discharged from probation before or upon the
19 child's eighteenth birthday.

20 Sec. 13. NEW SECTION. 232.56 YOUTHFUL OFFENDERS --
21 TRANSFER TO DISTRICT COURT SUPERVISION.

22 The juvenile court shall deliver a report, which includes
23 an assessment of the child by a juvenile court officer after
24 consulting with the judicial district department of
25 correctional services, to the district court prior to the
26 eighteenth birthday of a child who has received a youthful
27 offender deferred sentence under section 907.3A. A hearing
28 shall be held in the district court in accordance with section
29 907.3A to determine whether the child should be discharged
30 from youthful offender status or whether the child shall
31 continue under the supervision of the district court after the
32 child's eighteenth birthday.

33 Sec. 14. Section 602.1211, subsection 4, Code 1995, is
34 amended to read as follows:

35 4. A chief judge may designate other public officers to

1 accept bond money or security under section 232.23 or 811.2 at
2 times when the office of the clerk of court is not open.

3 Sec. 15. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED
4 SENTENCE -- YOUTHFUL OFFENDER STATUS.

5 1. Notwithstanding section 907.3, the trial court shall,
6 upon a plea of guilty or a verdict of guilty, defer sentence
7 of a youthful offender over whom the juvenile court has waived
8 jurisdiction pursuant to section 232.45, subsection 6A, and
9 place the juvenile on youthful offender status. The court
10 shall transfer supervision of the youthful offender to the
11 juvenile court for disposition in accordance with section
12 232.52. The court shall require supervision of the youthful
13 offender in accordance with section 232.54, subsection 8 or
14 subsection 2 of this section.

15 2. The court shall hold a hearing prior to a youthful
16 offender's eighteenth birthday to determine whether the
17 youthful offender shall continue on youthful offender status
18 after the youthful offender's eighteenth birthday under the
19 supervision of the court or be discharged. The court shall
20 review the report of the juvenile court regarding the youthful
21 offender and shall hear evidence by or on behalf of the
22 youthful offender, by the county attorney, and by the person
23 or agency to whom custody of the youthful offender was
24 transferred. The court shall make its decision after
25 considering the services available to the youthful offender,
26 the evidence presented, the juvenile court's report, the
27 interests of the youthful offender, and interests of the
28 community.

29 3. Notwithstanding any provision of this Code which
30 prescribes a mandatory minimum sentence for the offense
31 committed by the youthful offender, following transfer of the
32 youthful offender from the juvenile court back to the court
33 having jurisdiction over the criminal proceedings involving
34 the youthful offender, the court may continue the youthful
35 offender deferred sentence or enter a sentence, which may be a

1 suspended sentence. However, a youthful offender shall not be
2 placed on probation for longer than five years. During the
3 period of probation, a youthful offender who violates the
4 terms of probation is subject to section 908.11.

5 Sec. 16. Section 908.11, Code 1995, is amended to read as
6 follows:

7 908.11 VIOLATION OF PROBATION.

8 A probation officer or the judicial district department of
9 correctional services having probable cause to believe that
10 any person released on probation has violated the conditions
11 of probation shall proceed by arrest or summons as in the case
12 of a parole violation. The functions of the liaison officer
13 and the board of parole shall be performed by the judge or
14 magistrate who placed the alleged violator on probation if
15 that judge or magistrate is available, otherwise by another
16 judge or magistrate who would have had jurisdiction to try the
17 original offense. If the probation officer proceeds by
18 arrest, any magistrate may receive the complaint, issue an
19 arrest warrant, or conduct the initial appearance and probable
20 cause hearing if it is not convenient for the judge who placed
21 the alleged violator on probation to do so. The initial
22 appearance, probable cause hearing, and probation revocation
23 hearing, or any of them, may at the discretion of the court be
24 merged into a single hearing when it appears that the alleged
25 violator will not be prejudiced thereby. If the violation is
26 established, the court may continue the probation or youthful
27 offender status with or without an alteration of the
28 conditions of probation or youthful offender status. If the
29 defendant is an adult or youthful offender the court may hold
30 the defendant in contempt of court and sentence the defendant
31 to a jail term while continuing the probation or youthful
32 offender status, order the defendant to be placed in a
33 violator facility established pursuant to section 904.207
34 while continuing the probation or youthful offender status, or
35 revoke the probation or youthful offender status and require

1 the defendant to serve the sentence imposed or any lesser
2 sentence, and, if imposition of sentence was deferred, may
3 impose any sentence which might originally have been imposed.

4

EXPLANATION

5 This bill provides for shared jurisdiction between the
6 adult and juvenile courts over a juvenile who has committed
7 certain crimes. A juvenile who commits certain crimes would
8 become subject to the jurisdiction of the district court to be
9 tried or to plead guilty as an adult and would receive a
10 deferred sentence and be placed on youthful offender probation
11 as an adult. The juvenile would then be transferred to the
12 supervision of the juvenile court which would enter a
13 dispositional order as if it had adjudicated the juvenile a
14 delinquent. At the juvenile's eighteenth birthday, unless
15 supervision is terminated sooner by the juvenile court, the
16 juvenile would be returned to the district court for a hearing
17 at which the court will determine whether the juvenile, now an
18 adult, should continue on youthful offender status or be
19 discharged from youthful offender status as an adult.

20 Juveniles eligible for youthful offender status are those
21 under the age of 16 who commit drug offenses while possessing
22 a firearm or offensive weapon, criminal gang participation
23 involving a firearm or offensive weapon, a felony violation of
24 chapter 724 regarding firearms or offensive weapons, or a
25 forcible felony. These are the same offenses for which
26 juveniles age 16 or 17 are excluded from the jurisdiction of
27 the juvenile court.

28 The bill provides that a juvenile may attain youthful
29 offender status through the waiver of jurisdiction process in
30 the manner that juveniles are currently waived from the
31 jurisdiction of the juvenile court. The juvenile court can
32 waive its jurisdiction for the purpose of the juvenile being
33 prosecuted as a youthful offender after considering the best
34 interests of the child and community, the resources available
35 to the juvenile court prior to the juvenile's eighteenth

1 birthday, and whether the juvenile should be subject to
2 continued court supervision past the juvenile's eighteenth
3 birthday.

4 A juvenile who is waived for the purpose of being
5 prosecuted as a youthful offender would be held in a juvenile
6 detention facility prior to trial, unless released on bail.
7 Pretrial release conditions, if any, would be determined by
8 the juvenile court at a detention hearing. The juvenile will
9 be supervised by a juvenile court officer or juvenile court
10 services personnel while in detention or on pretrial release.

11 In addition, juveniles who receive youthful offender
12 deferred sentences shall be subject to the supervision of the
13 juvenile court while on youthful offender status until age 18,
14 unless the juvenile court sooner terminates its supervision
15 because it believes the juvenile has been rehabilitated or the
16 juvenile violates the terms of the juvenile court's order. If
17 the termination is due to successful rehabilitation, the
18 district court must accept the termination. If the
19 termination is due to a violation of the terms of the order,
20 the juvenile is treated the same as an adult who has been
21 arrested for a probation violation. In this case, a juvenile
22 could be sentenced as an adult for the youthful offender
23 status violation, including the reinstatement of the deferred
24 sentence and commitment to the department of corrections.

25 The bill provides that if the juvenile is still on youthful
26 offender status under juvenile court supervision as the
27 juvenile's eighteenth birthday approaches, the juvenile will
28 have a hearing before the district court to determine if
29 youthful offender status will continue. The district court
30 may continue the youthful offender status for the offender
31 after age 18 is reached after considering the best interests
32 of the offender and the community. At this point, the
33 offender will be treated the same as other adults who have
34 received a deferred sentence and been placed on probation
35 regarding services or placement. However, although the bill

1 provides that youthful offenders are to be treated as adults,
2 youthful offender deferred sentences will be given for
3 offenses which would not be eligible for deferred sentence if
4 committed by an adult.

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SENATE FILE 2435
FISCAL NOTE

The estimate for Senate File 2435 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 2435 creates a shared jurisdiction between the adult and juvenile courts. The new Youthful Offender status would apply to juveniles under age 16 who have committed specified crimes. The Bill provides a process by which a juvenile may attain status as a Youthful Offender. Juveniles who receive Youthful Offender deferred sentences shall be subject to the supervision of the Juvenile Court until age 18, except in specified cases, and Youthful Offender status may continue after age 18 if doing so is in the best interests of the offender and the community.

ASSUMPTIONS

1. A survey of juvenile detention facilities around the State indicated that approximately 150 juveniles are eligible to be placed under the new Youthful Offender jurisdiction.
2. An estimated 23 juveniles who have committed offenses that make them eligible for Youthful Offender jurisdiction are currently waived to adult court and placed into the custody of the Department of Corrections. Twelve of these juveniles will continue to be tried as adults and placed into the custody or supervision of the Department of Corrections, and 11 of these juveniles will be prosecuted under the new Youthful Offender Program. These juveniles will receive child welfare services from the Department of Human Services (DHS), primarily group foster care services. The net fiscal impact for these juveniles will be an additional cost of \$80,000, based upon 11 juveniles currently sentenced to adult corrections who will now be placed in group foster care.
3. An estimated 127 juveniles who have committed offenses that make them eligible for Youthful Offender jurisdiction are currently adjudicated in juvenile court and receive child welfare services from the DHS. One-half (64) of these juveniles will be prosecuted under the Youthful Offender Program. Initially there would be no change in the services received by these juveniles.
4. There will be 75 juveniles entering the Youthful Offender Program each year, and each year 15.0% of these 75 juveniles (or a total of 11 juveniles) will leave the Youthful Offender Program and be ordered into the custody or supervision of the Department of Corrections due to their behavior. This number will increase each subsequent year, as the total number of juveniles in the Program grows. An estimated one-third of these 11 juveniles will be sent to prison and two-thirds will receive

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supervision from community corrections staff.

5. Because adult corrections programs cost less than the child welfare services provided to juvenile offenders, there will be a net fiscal savings of \$52,000. One-half (25) of the juveniles still receiving child welfare services from the DHS when they reach age 18 will be placed in the custody or under the supervision of the Department of Corrections. Under current law these persons leave the child welfare system and do not enter the adult corrections system unless they commit a new offense. There will therefore be an additional cost of \$95,000 for the cost of incarceration or supervision of these persons.
6. The creation of the Youthful Offender jurisdiction will result in additional costs to the Judicial Department from more waiver and review hearings and an increase in the complexity and length of hearings. In addition, Juvenile Court Officers will have additional cases to supervise. Juveniles who reach the age of 18 or who violate their Youthful Offender status will be subject to a sentencing type review by the District Court and a subsequent criminal proceeding in District Court. The total additional cost to the Judicial Department is estimated to be \$141,000.
7. There will also be additional costs to the Public Defender in the Department of Inspections and Appeals. Each Youthful Offender case is estimated to cost an additional \$400 to the State (for court-appointed counsel) and an additional \$400 to the county of jurisdiction (for county attorney time). Those persons transferred into the adult corrections system upon reaching age 18 will cost an additional \$400 to the State (for court-appointed counsel) and an additional \$400 to the county of jurisdiction (for county attorney time). Many juveniles will elect to waive their hearings and voluntarily submit to Youthful Offender jurisdiction. The total additional cost to the Public Defender is estimated to be \$40,000, with an additional \$40,000 in costs to the counties.

CORRECTIONAL IMPACT

Each year 11 juveniles who currently are waived to adult court would be prosecuted under the new Youthful Offender Program, and four juveniles who are under the jurisdiction of the Youthful Offender Program will leave the Program and be ordered into the custody of the Department of Corrections due to their behavior. The net impact is a reduction in the prison population of seven offenders each year.

In addition, 25 Youthful Offenders will be ordered into the custody of the Department of Corrections. Four of these offenders would have been in prison if there were not a Youthful Offender jurisdiction, while 21 offenders are new to the prison system.

FISCAL IMPACT

The 75 juveniles ordered into the Youthful Offender Program each year will result in an annual net State cost of \$304,000. The additional annual cost to counties is estimated to be \$40,000.

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SOURCES

Criminal and Juvenile Justice Planning Agency
Department of Corrections
Judicial Department
Department of Inspections and Appeals

(LSB 3728sv, JMN)

FILED APRIL 8, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

H-5543

1 Amend Senate File 2435, as passed by the Senate, as
2 follows:

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

5 "Sec. ____ . Section 232.22, subsection 6, Code
6 Supplement 1995, is amended to read as follows:

7 6. If the court has waived its jurisdiction over
8 the child for the alleged commission of a forcible
9 felony offense pursuant to section 232.45 or 232.45A,
10 and there is a serious risk that the child may commit
11 an act which would inflict serious bodily harm on
12 another person, the child may be held in the county
13 jail, ~~notwithstanding section 356.3.~~ However,
14 wherever possible the child shall be held in sight and
15 sound separation from adult offenders. A child held
16 in the county jail under this subsection shall have
17 all the rights of adult postarrest or pretrial
18 detainees. However, this subsection shall not apply
19 to a child over whom the court has waived its
20 jurisdiction for the purpose of prosecuting the child
21 as a youthful offender."

22 2. Page 9, by inserting after line 32 the
23 following:

24 "Sec. ____ . Section 356.3, Code 1995, is amended to
25 read as follows:

26 356.3 MINORS SEPARATELY CONFINED.

27 Any sheriff, city marshal, or chief of police,
28 having in the officer's care or custody any prisoner
29 person under the age of eighteen years who has not
30 been waived to criminal court for the alleged
31 commission of a forcible felony, shall-keep-such
32 prisoner-separate-and-apart,-and-prevent-communication
33 by-such-prisoner-with-prisoners-above-that-age,-while
34 such-prisoners-are-not-under-the-personal-supervision
35 of-such-officer,-if-suitable-buildings-or-jails-are
36 provided-for-that-purpose,-unless-such-prisoner-is
37 likely-to-or-does-exercise-an-immoral-influence-over
38 other-minors-with-whom-the-prisoner-may-be-imprisoned.
39 ---A-person-under-the-age-of-eighteen-years-prosecuted
40 under-chapter-232-and-not-waived-to-criminal-court
41 shall-be-confined confine the person in a jail only
42 under the conditions provided in chapter-232 section
43 232.22.

44 A person under the age of eighteen years who has
45 been waived to criminal court may be confined in a
46 jail in accordance with section 232.22, subsection 6.

47 Any officer having charge of prisoners who without
48 just cause or excuse neglects or refuses to perform
49 the duties imposed on the officer by this section may
50 be suspended or removed from office therefor."

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Page 2

1 3. Title page, line 2, by inserting after the
2 word "offenses" the following: ", the confinement of
3 certain juveniles in jails,".

4 4. By renumbering as necessary.

By KLEMME of Plymouth
RANTS of Woodbury
NUTT of Woodbury

SENATE FILE 2435

H-5863

1 Amend Senate File 2435, as passed by the Senate, as
2 follows:

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

5 "Sec. ____ . Section 232.22, subsection 4,
6 unnumbered paragraph 2, Code Supplement 1995, is
7 amended by striking the unnumbered paragraph.
8 Sec. ____ . Section 232.22, subsection 6, Code
9 Supplement 1995, is amended by striking the subsection
10 and inserting in lieu thereof the following:

11 6. If the juvenile court has waived its
12 jurisdiction over a child under section 232.45 or if a
13 child has been excluded from the jurisdiction of the
14 juvenile court under section 232.8, subsection 1,
15 paragraph "c", or section 232.45A for the purpose of
16 being prosecuted as an adult and has been charged with
17 an offense, the court having jurisdiction over the
18 child may order the child held in a facility referred
19 to in subsection 2 as follows:

20 a. If the offense is a simple or serious
21 misdemeanor, the child shall only be held in a
22 facility referred to in subsection 2, paragraph "a" or
23 "b".

24 b. If the offense is an aggravated misdemeanor or
25 a felony which is not a forcible felony, the child may
26 be held in a facility referred to in subsection 2,
27 paragraph "a" or "b", or in a facility referred to in
28 subsection 2, paragraph "c", only in accordance with
29 the requirements of subsection 2, paragraph "c",
30 subparagraph (4), and subsection 4, paragraph "c".

31 c. If the offense is a forcible felony, the child
32 may be held in a facility referred to in subsection 2,
33 paragraph "a" or "b", or in a facility referred to in
34 subsection 2, paragraph "c". The requirements of
35 subsection 2, paragraph "c", and subsection 4 shall
36 not apply to a child over whom the juvenile court has
37 waived its jurisdiction or who has been excluded from
38 the jurisdiction of the juvenile court and charged
39 with a forcible felony.

40 This subsection shall not apply to a child over
41 whom the juvenile court has waived its jurisdiction
42 for the purpose of prosecuting the child as a youthful
43 offender."

44 2. Page 9, by inserting after line 32 the
45 following:

46 "Sec. ____ . Section 356.3, Code 1995, is amended by
47 striking the section and inserting in lieu thereof the
48 following:

49 356.3 CONFINEMENT OF PERSONS UNDER AGE EIGHTEEN.

50 A person under the age of eighteen years shall only

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Page 2

1 be confined in a jail, municipal holding facility, or
2 facility established under chapter 356A in accordance
3 with section 232.22."

4 3. Title page, line 2, by inserting after the
5 word "offenses" the following: ", the confinement of
6 juveniles in adult facilities,".

7 4. By renumbering as necessary.

By KLEMME of Plymouth
RANTS of Woodbury
NUTT of Woodbury

H-5863 FILED APRIL 3, 1996

SENATE FILE 2435

H-5964

1 Amend Senate File 2435, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 216A.136, unnumbered paragraph
6 1, as enacted by 1996 Iowa Acts, House File 2448,
7 section 2, if enacted, is amended to read as follows:

8 The division shall maintain an Iowa statistical
9 analysis center for the purpose of coordinating with
10 data resource agencies to provide data and analytical
11 information to federal, state, and local governments,
12 and assist agencies in the use of criminal and
13 juvenile justice data. Notwithstanding any other
14 provision of state law, unless prohibited by federal
15 law or regulation, the division shall be granted
16 access, for purposes of research and evaluation, to
17 criminal history records, official juvenile court
18 records, juvenile court social records, and any other
19 data collected or under control of the board of
20 parole, department of corrections, district
21 departments of correctional services, department of
22 human services, judicial department, and department of
23 public safety. However, intelligence data and peace
24 officer investigative reports maintained by the
25 department of public safety shall not be considered
26 data for the purposes of this section. Any record,
27 data, or information obtained by the division under
28 this section and the division itself are subject to
29 the federal and state confidentiality laws and
30 regulations which are applicable to the original
31 record, data, or information obtained by the division
32 and to the original custodian of the record, data, or
33 information. The access shall include but is not
34 limited to all of the following:

35 Sec. 2. Section 216A.136, subsection 4, as enacted
36 by 1996 Iowa Acts, House File 2448, section 2, if
37 enacted, is amended to read as follows:

38 4. Criminal history and intelligence data
39 maintained under chapter 692."

40 2. Title page, line 1, by inserting after the
41 word "to" the following: "criminal and juvenile
42 justice, including criminal intelligence data and".

43 3. By renumbering as necessary.

By COON of Warren
KREIMAN of Davis

H-5964 FILED APRIL 16, 1996

Redfern
Maddox
Giannetto
Hammond
Anhausen

SSB -2298
Judiciary

SENATE/HOUSE FILE # 2435
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act relating to shared jurisdiction by the juvenile and adult
2 courts over juveniles who commit certain public offenses and
3 making penalties applicable.

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

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1 Section 1. Section 232.8, subsection 3, Code Supplement
2 1995, is amended to read as follows:

3 3. The juvenile court, after a hearing and in accordance
4 with the provisions of section 232.45, may waive jurisdiction
5 of a child alleged to have committed a public offense so that
6 the child may be prosecuted as an adult or youthful offender
7 for such offense in another court. If the child, except a
8 child being prosecuted as a youthful offender, pleads guilty
9 or is found guilty of a public offense in another court of
10 this state that court may, with the consent of the child,
11 defer judgment and without regard to restrictions placed upon
12 deferred judgments for adults, place the child on probation
13 for a period not less than one year upon such conditions as it
14 may require. Upon fulfillment of the conditions of probation
15 the child shall be discharged without entry of judgment.

16 Sec. 2. NEW SECTION. 232.23 DETENTION -- YOUTHFUL
17 OFFENDERS.

18 1. After waiver of a child who will be prosecuted as a
19 youthful offender, the child shall be held in a facility under
20 section 232.22, subsection 2, paragraph "a" or "b", unless
21 released in accordance with subsection 2.

22 2. a. The court shall determine, at the detention hearing
23 under section 232.44, the amount of bail, appearance bond, or
24 other conditions necessary for a child who has been waived for
25 prosecution as a youthful offender to be released from
26 detention or that the child should not be released from
27 detention.

28 b. A child placed in detention or released under this
29 subsection shall be supervised by a juvenile court officer or
30 juvenile court services personnel.

31 c. An order under this section may be reviewed by the
32 court upon motion of either party.

33 Sec. 3. Section 232.44, Code Supplement 1995, is amended
34 to read as follows:

35 232.44 DETENTION OR SHELTER CARE HEARING -- RELEASE FROM

1 DETENTION UPON CHANGE OF CIRCUMSTANCE.

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

12 If the child is placed in a detention facility in a county
13 other than the county in which the child resides or in which
14 the delinquent act allegedly occurred but which is within the
15 same judicial district, the hearing may take place in the
16 county in which the detention facility is located. The child
17 shall appear in person at the hearing required by this
18 subsection.

19 2. The county attorney or a juvenile court officer may
20 apply for a hearing at any time after the petition is filed to
21 determine whether the child who is the subject of the petition
22 should be placed in detention or shelter care. The court may
23 upon the application or upon its own motion order such
24 hearing. The court shall order a detention hearing for a
25 child waived under section 232.45, subsection 6A, at the time
26 of waiver.

27 3. A notice shall be served upon the child, the child's
28 attorney, the child's guardian ad litem if any, and the
29 child's known parent, guardian, or custodian not less than
30 twelve hours before the time the hearing is scheduled to begin
31 and in a manner calculated fairly to apprise the parties of
32 the time, place, and purpose of the hearing. In the case of a
33 hearing for a child waived for prosecution as a youthful
34 offender, this notice may accompany the waiver order. If the
35 court finds that there has been reasonably diligent effort to

1 give notice to a parent, guardian, or custodian and that the
2 effort has been unavailing, the hearing may proceed without
3 the notice having been served.

4 4. At the hearing to determine whether detention or
5 shelter care is authorized under section 232.21 or 232.22 the
6 court shall admit only testimony and other evidence relevant
7 to the determination of whether there is probable cause to
8 believe the child has committed the act as alleged in the
9 petition and to the determination of whether the placement of
10 the child in detention or shelter care is authorized under
11 section 232.21 or 232.22. At the hearing to determine whether
12 a child who has been waived for prosecution as a youthful
13 offender should be released from detention the court shall
14 also admit evidence of the kind admissible to determine bond
15 or bail under chapter 811.1, notwithstanding section 811.1.
16 Any written reports or records made available to the court at
17 the hearing shall be made available to the parties. A copy of
18 the petition or waiver order shall be given to each of the
19 parties at or before the hearing.

20 5. The court shall find release to be proper under the
21 following circumstances:

22 a. If the court finds that there is not probable cause to
23 believe that the child is a child within the jurisdiction of
24 the court under this chapter, it shall release the child and
25 dismiss the petition.

26 b. If the court finds that detention or shelter care is
27 not authorized under section 232.21 or 232.22, or is
28 authorized but not warranted in a particular case, the court
29 shall order the child's release, and in so doing, may impose
30 one or more of the following conditions:

31 (1) Place the child in the custody of a parent, guardian
32 or custodian under that person's supervision, or under the
33 supervision of an organization which agrees to supervise the
34 child.

35 (2) Place restrictions on the child's travel, association,

1 or place of residence during the period of release.

2 (3) Impose any other condition deemed reasonably necessary
3 and consistent with the grounds for detaining children
4 specified in section 232.21 or 232.22, including a condition
5 requiring that the child return to custody as required.

6 (4) In the case of a child waived for prosecution as a
7 youthful offender, require bail, an appearance bond, or set
8 other conditions consistent with this section or section
9 811.2.

10 c. An order releasing a child on conditions specified in
11 this section may be amended at any time to impose equally or
12 less restrictive conditions. The order may be amended to
13 impose additional or more restrictive conditions, or to revoke
14 the release, if the child has failed to conform to the
15 conditions originally imposed.

16 6. If the court finds that there is probable cause to
17 believe that the child is within the jurisdiction of the court
18 under this chapter and that full-time detention or shelter
19 care is authorized under section 232.21 or 232.22 or that
20 detention is authorized under section 232.23, it may issue an
21 order authorizing either shelter care or detention until the
22 adjudicatory hearing or trial is held or for a period not
23 exceeding seven days whichever is shorter. However, in the
24 case of a child placed in detention under section 232.23, this
25 period may be extended by agreement of the parties and the
26 court.

27 7. If a child held in shelter care or detention by court
28 order has not been released after a detention hearing or has
29 not appeared at an adjudicatory hearing before the expiration
30 of the order of detention, an additional hearing shall
31 automatically be scheduled for the next court day following
32 the expiration of the order. The child, the child's counsel,
33 the child's guardian ad litem, and the child's parent,
34 guardian or custodian shall be notified of this hearing not
35 less than twenty-four hours before the hearing is scheduled to

1 take place. The hearing required by this subsection may be
2 held by telephone conference call.

3 8. A child held in a detention or shelter care facility
4 pursuant to section 232.21 or 232.22 under order of court
5 after a hearing may be released upon a showing that a change
6 of circumstances makes continued detention unnecessary.

7 9. A written request for the release of the child, setting
8 forth the changed circumstances, may be filed by the child, by
9 a responsible adult on the child's behalf, by the child's
10 custodian, or by the juvenile court officer.

11 10. Based upon the facts stated in the request for release
12 the court may grant or deny the request without a hearing, or
13 may order that a hearing be held at a date, time and place
14 determined by the court. Notice of the hearing shall be given
15 to the child and the child's custodian or counsel. Upon
16 receiving evidence at the hearing, the court may release the
17 child to the child's custodian or other suitable person, or
18 may deny the request and remand the child to the detention or
19 shelter care facility.

20 11. This section does not apply to a child placed in
21 accordance with section 232.78, 232.79, or 232.95.

22 Sec. 4. Section 232.45, subsection 1, Code 1995, is
23 amended to read as follows:

24 1. After the filing of a petition which alleges that a
25 child has committed a delinquent act on the basis of an
26 alleged commission of a public offense and before an
27 adjudicatory hearing on the merits of the petition is held,
28 the county attorney or the child may file a motion requesting
29 the court to waive its jurisdiction over the child for the
30 alleged commission of the public offense. If the county
31 attorney and the child agree, a motion for waiver for the
32 purpose of being prosecuted as a youthful offender may be
33 heard by the court which will have jurisdiction over the
34 criminal proceedings involving the child.

35 Sec. 5. Section 232.45, Code 1995, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 6A. At the conclusion of the waiver
3 hearing and after considering the best interests of the child
4 and the best interests of the community the court may, in
5 order that the child may be prosecuted as a youthful offender,
6 waive its jurisdiction over the child if all of the following
7 apply:

8 a. The child is fifteen years of age or younger.

9 b. The court determines, or has previously determined in a
10 detention hearing under section 232.44, that there is probable
11 cause to believe that the child has committed a delinquent act
12 which would constitute a public offense under section 232.8,
13 subsection 1, paragraph "c", notwithstanding the application
14 of that paragraph to children aged sixteen or older.

15 c. The court determines that the state has established
16 that there are not reasonable prospects for rehabilitating the
17 child, prior to the child's eighteenth birthday, if the
18 juvenile court retains jurisdiction over the child and the
19 child enters into a plea agreement, is a party to a consent
20 decree, or is adjudicated to have committed the delinquent
21 act.

22 The court shall retain jurisdiction over the child for the
23 purpose of determining whether the child should be released
24 from detention under section 232.23.

25 Sec. 6. Section 232.45, Code 1995, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 7A. In making the determination required
28 by subsection 6A, paragraph "c", the factors which the court
29 shall consider include but are not limited to the following:

30 a. The nature of the alleged delinquent act and the
31 circumstances under which it was committed.

32 b. The nature and extent of the child's prior contacts
33 with juvenile authorities, including past efforts of such
34 authorities to treat and rehabilitate the child and the
35 response to such efforts.

1 c. The age of the child, the programs, facilities, and
2 personnel available to the juvenile court for rehabilitation
3 and treatment of the child, and the programs, facilities, and
4 personnel which would be available to the district court after
5 the child reaches the age of eighteen in the event the child
6 is given youthful offender status.

7 Sec. 7. Section 232.45, subsection 10, Code 1995, is
8 amended to read as follows:

9 10. If the court waives its jurisdiction over the child
10 for the alleged commission of the public offense so that the
11 child may be prosecuted as an adult or a youthful offender,
12 the judge who made the waiver decision shall not preside at
13 any subsequent proceedings in connection with that prosecution
14 if the child objects.

15 Sec. 8. Section 232.45A, Code Supplement 1995, is amended
16 by adding the following new subsection:

17 NEW SUBSECTION. 4. This section shall not apply to a
18 child who was waived to the district court for the purpose of
19 being prosecuted as a youthful offender.

20 Sec. 9. Section 232.50, subsection 1, Code 1995, is
21 amended to read as follows:

22 1. As soon as practicable following the entry of an order
23 of adjudication pursuant to section 232.47 or notification
24 that the child has received a youthful offender deferred
25 sentence pursuant to section 907.3A, the court shall hold a
26 dispositional hearing in order to determine what disposition
27 should be made of the matter.

28 Sec. 10. Section 232.52, subsection 1, Code Supplement
29 1995, is amended to read as follows:

30 1. Pursuant to a hearing as provided in section 232.50,
31 the court shall enter the least restrictive dispositional
32 order appropriate in view of the seriousness of the delinquent
33 act, the child's culpability as indicated by the circumstances
34 of the particular case, the age of the child, and the child's
35 prior record, or the fact that the child has received a

1 youthful offender deferred sentence under section 907.3A. The
2 order shall specify the duration and the nature of the
3 disposition, including the type of residence or confinement
4 ordered and the individual, agency, department or facility in
5 whom custody is vested. In the case of a child who has
6 received a youthful offender deferred sentence, the initial
7 duration of the dispositional order shall be until the child
8 reaches the age of eighteen.

9 Sec. 11. Section 232.54, Code Supplement 1995, is amended
10 by adding the following new subsections:

11 NEW SUBSECTION. 7. With respect to a juvenile court
12 dispositional order entered regarding a child who has received
13 a youthful offender deferred sentence under section 907.3A,
14 the dispositional order may be terminated prior to the child
15 reaching the age of eighteen upon motion of the child, the
16 person or agency to whom custody of the child has been
17 transferred, or the county attorney following a hearing before
18 the juvenile court if it is shown by clear and convincing
19 evidence that it is in the best interests of the child and the
20 community to terminate the order. The district court shall
21 discharge the child's youthful offender status upon receiving
22 a termination order under this section.

23 NEW SUBSECTION. 8. With respect to a dispositional order
24 entered regarding a child who has received a youthful offender
25 deferred sentence under section 907.3A, the juvenile court
26 may, in the case of a child who violates the terms of the
27 order, modify or terminate the order in accordance with the
28 following:

29 a. After notice and hearing at which the facts of the
30 child's violation of the terms of the order are found, the
31 juvenile court may refuse to modify the order, modify the
32 order and impose a more restrictive order, or, after an
33 assessment of the child by a juvenile court officer in
34 consultation with the judicial district department of
35 correctional services and if the child is age fourteen or

1 over, terminate the order and return the child to the
2 supervision of the district court under chapter 907..

3 b. The juvenile court shall only terminate an order under
4 this subsection if after considering the best interests of the
5 child and the best interests of the community the court finds
6 that the child should be returned to the supervision of the
7 district court.

8 c. A youthful offender over whom the juvenile court has
9 terminated the dispositional order under this subsection shall
10 be treated in the manner of an adult who has been arrested for
11 a violation of probation under section 908.11 for sentencing
12 purposes only.

13 Sec. 12. Section 232.55, Code 1995, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. This section does not apply to
16 dispositional orders entered regarding a child who has
17 received a youthful offender deferred sentence under section
18 907.3A who is not discharged from probation before or upon the
19 child's eighteenth birthday.

20 Sec. 13. NEW SECTION. 232.56 YOUTHFUL OFFENDERS --
21 TRANSFER TO DISTRICT COURT SUPERVISION.

22 The juvenile court shall deliver a report, which includes
23 an assessment of the child by a juvenile court officer after
24 consulting with the judicial district department of
25 correctional services, to the district court prior to the
26 eighteenth birthday of a child who has received a youthful
27 offender deferred sentence under section 907.3A. A hearing
28 shall be held in the district court in accordance with section
29 907.3A to determine whether the child should be discharged
30 from youthful offender status or whether the child shall
31 continue under the supervision of the district court after the
32 child's eighteenth birthday.

33 Sec. 14. Section 602.1211, subsection 4, Code 1995, is
34 amended to read as follows:

35 4. A chief judge may designate other public officers to

1 accept bond money or security under section 232.23 or 811.2 at
2 times when the office of the clerk of court is not open.

3 Sec. 15. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED
4 SENTENCE -- YOUTHFUL OFFENDER STATUS.

5 1. Notwithstanding section 907.3, the trial court shall,
6 upon a plea of guilty or a verdict of guilty, defer sentence
7 of a youthful offender over whom the juvenile court has waived
8 jurisdiction pursuant to section 232.45, subsection 6A, and
9 place the juvenile on youthful offender status. The court
10 shall transfer supervision of the youthful offender to the
11 juvenile court for disposition in accordance with section
12 232.52. The court shall require supervision of the youthful
13 offender in accordance with section 232.54, subsection 8 or
14 subsection 2 of this section.

15 2. The court shall hold a hearing prior to a youthful
16 offender's eighteenth birthday to determine whether the
17 youthful offender shall continue on youthful offender status
18 after the youthful offender's eighteenth birthday under the
19 supervision of the court or be discharged. The court shall
20 review the report of the juvenile court regarding the youthful
21 offender and shall hear evidence by or on behalf of the
22 youthful offender, by the county attorney, and by the person
23 or agency to whom custody of the youthful offender was
24 transferred. The court shall make its decision after
25 considering the services available to the youthful offender,
26 the evidence presented, the juvenile court's report, the
27 interests of the youthful offender, and interests of the
28 community.

29 3. Notwithstanding any provision of this Code which
30 prescribes a mandatory minimum sentence for the offense
31 committed by the youthful offender, following transfer of the
32 youthful offender from the juvenile court back to the court
33 having jurisdiction over the criminal proceedings involving
34 the youthful offender, the court may continue the youthful
35 offender deferred sentence or enter a sentence, which may be a

1 suspended sentence. However, a youthful offender shall not be
2 placed on probation for longer than five years. During the
3 period of probation, a youthful offender who violates the
4 terms of probation is subject to section 908.11.

5 Sec. 16. Section 908.11, Code 1995, is amended to read as
6 follows:

7 908.11 VIOLATION OF PROBATION.

8 A probation officer or the judicial district department of
9 correctional services having probable cause to believe that
10 any person released on probation has violated the conditions
11 of probation shall proceed by arrest or summons as in the case
12 of a parole violation. The functions of the liaison officer
13 and the board of parole shall be performed by the judge or
14 magistrate who placed the alleged violator on probation if
15 that judge or magistrate is available, otherwise by another
16 judge or magistrate who would have had jurisdiction to try the
17 original offense. If the probation officer proceeds by
18 arrest, any magistrate may receive the complaint, issue an
19 arrest warrant, or conduct the initial appearance and probable
20 cause hearing if it is not convenient for the judge who placed
21 the alleged violator on probation to do so. The initial
22 appearance, probable cause hearing, and probation revocation
23 hearing, or any of them, may at the discretion of the court be
24 merged into a single hearing when it appears that the alleged
25 violator will not be prejudiced thereby. If the violation is
26 established, the court may continue the probation or youthful
27 offender status with or without an alteration of the
28 conditions of probation or a youthful offender status. If the
29 defendant is an adult or a youthful offender the court may
30 hold the defendant in contempt of court and sentence the
31 defendant to a jail term while continuing the probation or
32 youthful offender status, order the defendant to be placed in
33 a violator facility established pursuant to section 904.207
34 while continuing the probation or youthful offender status, or
35 revoke the probation or youthful offender status and require

1 the defendant to serve the sentence imposed or any lesser
2 sentence, and, if imposition of sentence was deferred, may
3 impose any sentence which might originally have been imposed.

4

EXPLANATION

5 This bill provides for shared jurisdiction between the
6 adult and juvenile courts over a juvenile who has committed
7 certain crimes. A juvenile who commits certain crimes would
8 become subject to the jurisdiction of the district court to be
9 tried or to plead guilty as an adult and would receive a
10 deferred sentence and be placed on youthful offender probation
11 as an adult. The juvenile would then be transferred to the
12 supervision of the juvenile court which would enter a
13 dispositional order as if it had adjudicated the juvenile a
14 delinquent. At the juvenile's eighteenth birthday, unless
15 supervision is terminated sooner by the juvenile court, the
16 juvenile would be returned to the district court for a hearing
17 at which the court will determine whether the juvenile, now an
18 adult, should continue on youthful offender status or be
19 discharged from youthful offender status as an adult.

20 Juveniles eligible for youthful offender status are those
21 under the age of 16 who commit drug offenses while possessing
22 a firearm or offensive weapon, criminal gang participation
23 involving a firearm or offensive weapon, a felony violation of
24 chapter 724 regarding firearms or offensive weapons, or a
25 forcible felony. These are the same offenses for which
26 juveniles age 16 or 17 are excluded from the jurisdiction of
27 the juvenile court.

28 The bill provides that a juvenile may attain youthful
29 offender status through the waiver of jurisdiction process in
30 the manner that juveniles are currently waived from the
31 jurisdiction of the juvenile court. The juvenile court can
32 waive its jurisdiction for the purpose of the juvenile being
33 prosecuted as a youthful offender after considering the best
34 interests of the child and community, the resources available
35 to the juvenile court prior to the juvenile's eighteenth

1 birthday, and whether the juvenile should be subject to
2 continued court supervision past the juvenile's eighteenth
3 birthday.

4 A juvenile who is waived for the purpose of being
5 prosecuted as a youthful offender would be held in a juvenile
6 detention facility prior to trial, unless released on bail.
7 Pretrial release conditions, if any, would be determined by
8 the juvenile court at a detention hearing. The juvenile will
9 be supervised by a juvenile court officer or juvenile court
10 services personnel while in detention or on pretrial release.

11 In addition, juveniles who receive youthful offender
12 deferred sentence shall be subject to the supervision of the
13 juvenile court while on youthful offender status until age 18,
14 unless the juvenile court sooner terminates its supervision
15 because it believes the juvenile has been rehabilitated or the
16 juvenile violates the terms of the juvenile court's order. If
17 the termination is due to successful rehabilitation, the
18 district court must accept the termination. If the
19 termination is due to a violation of the terms of the order,
20 the juvenile is treated the same as an adult who has been
21 arrested for a probation violation. In this case, a juvenile
22 could be sentenced as an adult for the youthful offender
23 status violation, including the reinstatement of the deferred
24 sentence and commitment to the department of corrections.

25 The bill provides that if the juvenile is still on youthful
26 offender status under juvenile court supervision as the
27 juvenile's eighteenth birthday approaches, the juvenile will
28 have a hearing before the district court to determine if
29 youthful offender status will continue. The district court
30 may continue the youthful offender status for the offender
31 after age 18 is reached after considering the best interests
32 of the offender and the community. At this point, the
33 offender will be treated the same as other adults who have
34 received a deferred sentence and been placed on probation
35 regarding services or placement. However, although the bill

1 provides that youthful offenders are to be treated as adults,
2 youthful offender deferred sentences will be given for
3 offenses which would not be eligible for deferred sentence if
4 committed by an adult.

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