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SENATE FILE 515
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 154)

Passed Senate, Date ^(P. 899) 4-1-97 Passed House, Date ^(P. 1249) 4-15-97
Vote: Ayes 38 Nays 9 Vote: Ayes 92 Nays 7

^(P. 917) Passed 4-2-97 Approved May 7, 1997
Vote 42-5

A BILL FOR

1 An Act relating to juvenile justice and youthful offenders, by
2 making changes in provisions relating to illegal purchase or
3 possession of alcohol and tobacco by juveniles and youthful
4 offenders, making changes relating to dramshop liability,
5 providing for notification of school officials of possession
6 of alcohol by students, providing for the taking of
7 fingerprints and photographs of certain juveniles, permitting
8 victims to make oral victim impact statements in juvenile
9 proceedings, making changes related to the supplying of
10 alcohol to persons under the age of twenty-one, providing for
11 sharing of information regarding delinquent juveniles and
12 juveniles under the jurisdiction of various social services
13 agencies, providing for shared jurisdiction between the adult
14 and juvenile courts over youthful offenders, changing the
15 criteria for placement in the state training school or other
16 facility, making changes relating to state reimbursement for
17 expenses of court-appointed attorneys in juvenile court,
18 permitting the release of information relating to juveniles
19 who have escaped from a detention facility, providing for
20 notification of juvenile court authorities of unexcused
21 absences or suspensions or expulsions of students who are on
22 probation, providing for bailiff and other law enforcement

1 assistance to associate juvenile judges, including arrest or
2 disposition or custody or adjudication data in criminal
3 history data kept by the department of public safety,
4 authorizing school officials to conduct searches of students
5 and their lockers and other spaces and to report possession or
6 use of alcohol or controlled substances to law enforcement
7 authorities.

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

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1 Section 1. Section 123.3, subsection 19, Code 1997, is
2 amended to read as follows:

3 19. "Legal age" means nineteen twenty-one years of age or
4 more.

5 Sec. 2. Section 123.47, Code 1997, is amended to read as
6 follows:

7 123.47 PERSONS UNDER THE LEGAL AGE ~~OF-EIGHTEEN~~ -- PENALTY.

8 1. A person shall not sell, give, or otherwise supply
9 alcoholic liquor, wine, or beer to any person knowing or
10 having reasonable cause to believe that person to be under the
11 legal age of eighteen-and-a.

12 2. A person or persons under the legal age ~~of-eighteen~~
13 shall not purchase or attempt to purchase, or individually or
14 jointly have alcoholic liquor, wine, or beer in their
15 possession or control; except in the case of liquor, wine, or
16 beer given or dispensed to a person under the legal age of
17 ~~eighteen~~ within a private home and with the knowledge,
18 presence, and consent of the parent or guardian, for beverage
19 or medicinal purposes or as administered to the person by
20 either a physician or dentist for medicinal purposes and
21 except to the extent that a person under the legal age of
22 ~~eighteen~~ may handle alcoholic beverages, wine, and beer during
23 the regular course of the person's employment by a liquor
24 control licensee, or wine or beer permittee under this
25 chapter.

26 3. A person who is under legal age, other than a licensee
27 or permittee, who violates this section regarding the purchase
28 of or attempt to purchase alcoholic liquor, wine, or beer
29 ~~shall-pay-a-twenty-five-dollar-penalty, or possessing or~~
30 having control of alcoholic liquor, wine, or beer, commits a
31 simple misdemeanor punishable by a fine of one hundred dollars
32 for the first offense. A second or subsequent offense shall
33 be a serious misdemeanor punishable by a fine of two hundred
34 dollars and the suspension of the person's operating
35 privileges for a period not to exceed one year.

1 4. Except as otherwise provided in subsections 5 and 6, a
2 person, other than a licensee or permittee, who sells, gives,
3 or otherwise supplies alcoholic liquor, wine, or beer to a
4 person who is under legal age in violation of this section
5 commits a serious misdemeanor punishable by a fine of five
6 hundred dollars.

7 5. A person, other than a licensee or permittee, who
8 sells, gives, or otherwise supplies alcoholic liquor, wine, or
9 beer to a person who is under legal age in violation of this
10 section which results in serious injury to the person who is
11 under legal age commits an aggravated misdemeanor.

12 6. A person, other than a licensee or permittee, who
13 sells, gives, or otherwise supplies alcoholic liquor, wine, or
14 beer to a person who is under legal age in violation of this
15 section which results in the death of the person who is under
16 legal age commits a class "D" felony.

17 Sec. 3. Section 123.47B, Code 1997, is amended to read as
18 follows:

19 123.47B PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER
20 EIGHTEEN YEARS OF AGE.

21 A peace officer shall make a reasonable effort to identify
22 a person under the age of eighteen discovered to be in
23 possession of alcoholic liquor, wine, or beer in violation of
24 section 123.47 and if the person is not referred to juvenile
25 court, the law enforcement agency of which the peace officer
26 is an employee shall make a reasonable attempt to notify the
27 person's custodial parent or legal guardian of such
28 possession, whether or not the person is arrested or a
29 citation is issued pursuant to section 805.16, unless the
30 officer has reasonable grounds to believe that such
31 notification is not in the best interests of the person or
32 will endanger that person. The peace officer shall also make
33 a reasonable effort to identify the elementary or secondary
34 school which the person attends and to notify the
35 superintendent or the superintendent's designee of the school

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

12 Sec. 4. Section 123.49, subsection 1, paragraphs a and b,
13 Code 1997, are amended by striking the paragraphs.

14 Sec. 5. Section 123.49, subsection 3, Code 1997, is
15 amended to read as follows:

16 3. No A person under legal age shall not misrepresent the
17 person's age for the purpose of purchasing or attempting to
18 purchase any alcoholic beverage, wine, or beer from any
19 licensee or permittee. If any person under legal age
20 misrepresents the person's age, and the licensee or permittee
21 establishes that the licensee or permittee made reasonable
22 inquiry to determine whether the prospective purchaser was
23 over legal age, the licensee or permittee is not guilty of
24 selling alcoholic liquor, wine, or beer to minors a person
25 under legal age.

26 Sec. 6. Section 123.50, subsection 1, Code 1997, is
27 amended to read as follows:

28 1. Any person who violates any of the provisions of
29 section 123.49, except subsection 2, paragraph "h", shall be
30 guilty of a simple misdemeanor. A person who violates section
31 123.49, subsection 2, paragraph "h", commits a simple serious
32 misdemeanor punishable as-a-scheduled-violation-under-section
33 805-87-subsection-107-paragraph-"b" by a fine of one thousand
34 five hundred dollars.

35 Sec. 7. Section 123.50, subsection 4, Code 1997, is

1 amended by striking the subsection.

2 Sec. 8. Section 123.92, unnumbered paragraph 1, Code 1997,
3 is amended to read as follows:

4 Any person who is injured in person or property or means of
5 support by an intoxicated person or resulting from the
6 intoxication of a person, has a right of action for all
7 damages actually sustained, severally or jointly, against any
8 ~~licensee or permittee, whether or not the license or permit~~
9 ~~was issued by the division or by the licensing authority of~~
10 ~~any other state,~~ person who sold and or served any beer, wine,
11 or intoxicating liquor to the intoxicated person when the
12 ~~licensee or permittee~~ person who sold or served the beer,
13 wine, or intoxicating liquor knew or should have known the
14 person was intoxicated, or who sold to ~~and~~ or served the
15 person to a point where the ~~licensee or permittee~~ person
16 selling or serving the beer, wine, or intoxicating liquor knew
17 or should have known the person would become intoxicated. If
18 the injury was caused by an intoxicated person, a ~~permittee or~~
19 ~~licensee~~ person who sold or served the beer, wine, or
20 intoxicating liquor may establish as an affirmative defense
21 that the intoxication did not contribute to the injurious
22 action of the person. ~~The remedy provided by this section~~
23 ~~shall apply both prospectively, to actions filed on or after~~
24 ~~July 17, 1992, and retrospectively, to actions pending in trial~~
25 ~~or appellate courts prior to July 17, 1992.~~

26 Sec. 9. Section 123.95, subsection 1, Code 1997, is
27 amended to read as follows:

28 1. A person shall not allow the dispensing or consumption
29 of alcoholic liquor, except wines and beer, in any
30 establishment unless the establishment is licensed under this
31 chapter or except as otherwise provided in this section. The
32 holder of an annual class "B" liquor control license or an
33 annual class "C" liquor control license may act as the agent
34 of a private social host for the purpose of providing and
35 serving alcoholic liquor, wine, and beer as part of a food

1 catering service for a private social gathering in a private
2 place. The holder of an annual special class "C" liquor
3 control license shall not act as the agent of a private social
4 host for the purpose of providing and serving wine and beer as
5 part of a food catering service for a private social gathering
6 in a private place. The private social host or the licensee
7 shall not solicit donations in payment for the food or
8 alcoholic beverages from the guests, and the alcoholic
9 beverages and food shall be served without cost to the guests.
10 ~~Section 123.92 does not apply to a liquor control licensee who~~
11 ~~acts in accordance with this section when the liquor control~~
12 ~~licensee is providing and serving food and alcoholic beverages~~
13 ~~as an agent of a private social host at a private social~~
14 ~~gathering in a private place which is not on the licensed~~
15 ~~premises.~~

16 Sec. 10. Section 137C.25C, subsection 3, Code 1997, is
17 amended to read as follows:

18 3. The owner or operator reasonably believes that the
19 individual is using the premises for an unlawful purpose
20 including, but not limited to, the unlawful use or possession
21 of controlled substances or the use of the premises for the
22 consumption of alcohol by an individual in violation of
23 section 123.47 ~~or 123.47A.~~

24 Sec. 11. Section 232.8, subsection 3, Code 1997, is
25 amended to read as follows:

26 3. The juvenile court, after a hearing and in accordance
27 with the provisions of section 232.45, may waive jurisdiction
28 of a child alleged to have committed a public offense so that
29 the child may be prosecuted as an adult or youthful offender
30 for such offense in another court. If the child, except a
31 child being prosecuted as a youthful offender, pleads guilty
32 or is found guilty of a public offense in another court of
33 this state that court may, with the consent of the child,
34 defer judgment and without regard to restrictions placed upon
35 deferred judgments for adults, place the child on probation

1 for a period of not less than one year upon such conditions as
2 it may require. Upon fulfillment of the conditions of
3 probation the child shall be discharged without entry of
4 judgment.

5 Sec. 12. Section 232.19, subsection 2, Code 1997, is
6 amended to read as follows:

7 2. When a child is taken into custody as provided in
8 subsection 1 the person taking the child into custody shall
9 notify the child's parent, guardian, or custodian as soon as
10 possible ~~and shall not.~~ The person may place bodily
11 restraints, such as handcuffs, on the child unless if the
12 child physically resists; or threatens physical violence when
13 being taken into custody; is being taken into custody for an
14 alleged delinquent act of violence against a person; or when,
15 in the reasonable judgment of the officer, the child presents
16 a risk of injury to the child or others. However, if the
17 ~~child is thirteen years of age or older, the child may be~~
18 ~~restrained by metal handcuffs only, for the purpose of~~
19 ~~transportation in a vehicle which is not equipped with a rear~~
20 ~~seat cage for prisoner transport and if the child is being~~
21 ~~taken into custody for an alleged delinquent act of violence~~
22 ~~against a person.~~ The child may also be restrained by
23 handcuffs or other restraints at any time after the child is
24 taken into custody if the child has a known history of
25 physical violence to others. Unless the child is placed in
26 shelter care or detention in accordance with the provisions of
27 section 232.21 or 232.22, the child shall be released to the
28 child's parent, guardian, custodian, responsible adult
29 relative, or other adult approved by the court upon the
30 promise of such person to produce the child in court at such
31 time as the court may direct.

32 Sec. 13. Section 232.19, Code 1997, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 4. Information pertaining to a child
35 taken into custody for a delinquent act which would be a

1 public offense is a public record and is not confidential
2 under section 232.147.

3 Sec. 14. NEW SECTION. 232.23 DETENTION -- YOUTHFUL
4 OFFENDERS.

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

9 2. a. The court shall determine, at the detention hearing
10 under section 232.44, the amount of bail, appearance bond, or
11 other conditions necessary for a child who has been waived for
12 prosecution as a youthful offender to be released from
13 detention or that the child should not be released from
14 detention.

15 b. A child placed in detention or released under this
16 subsection shall be supervised by a juvenile court officer or
17 juvenile court services personnel.

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

20 Sec. 15. Section 232.28, subsection 10, Code 1997, is
21 amended to read as follows:

22 10. A complaint filed with the court or its designee
23 pursuant to this section which alleges that a child has
24 committed a delinquent act which if committed by an adult
25 would be ~~an aggravated misdemeanor or a felony shall be a~~
26 public offense is a public record and shall not be
27 confidential under section 232.147. The court, its designee,
28 or law enforcement officials are authorized to release the
29 complaint, including the identity of the child named in the
30 complaint.

31 Sec. 16. Section 232.28, subsection 11, Code 1997, is
32 amended to read as follows:

33 11. If a complaint is filed under this section, alleging a
34 child has committed a delinquent act, the alleged victim may
35 file a signed victim impact statement with the juvenile court

1 containing the information specified for a victim impact
2 statement under section 910A.5. The written victim impact
3 statement shall be considered by the court and the juvenile
4 court officer handling the complaint in any proceeding or
5 informal adjustment associated with the complaint. In
6 addition, the victim shall be allowed to orally present the
7 victim impact statement in any informal adjustment,
8 disposition, or other proceeding which disposes of the
9 complaint.

10 Sec. 17. Section 232.28A, subsection 1, paragraph d, Code
11 1997, is amended to read as follows:

12 d. To be notified of the person's right to offer a written
13 victim impact statement and to orally present the victim
14 impact statement under sections 232.28 and 910A.5.

15 Sec. 18. Section 232.44, Code 1997, is amended to read as
16 follows:

17 232.44 DETENTION OR SHELTER CARE HEARING -- RELEASE FROM
18 DETENTION UPON CHANGE OF CIRCUMSTANCE.

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

29 If the child is placed in a detention facility in a county
30 other than the county in which the child resides or in which
31 the delinquent act allegedly occurred but which is within the
32 same judicial district, the hearing may take place in the
33 county in which the detention facility is located. The child
34 shall appear in person at the hearing required by this
35 subsection.

1 2. The county attorney or a juvenile court officer may
2 apply for a hearing at any time after the petition is filed to
3 determine whether the child who is the subject of the petition
4 should be placed in detention or shelter care. The court may
5 upon the application or upon its own motion order such
6 hearing. The court shall order a detention hearing for a
7 child waived under section 232.45, subsection 6A, at the time
8 of waiver.

9 3. A notice shall be served upon the child, the child's
10 attorney, the child's guardian ad litem if any, and the
11 child's known parent, guardian, or custodian not less than
12 twelve hours before the time the hearing is scheduled to begin
13 and in a manner calculated fairly to apprise the parties of
14 the time, place, and purpose of the hearing. In the case of a
15 hearing for a child waived for prosecution as a youthful
16 offender, this notice may accompany the waiver order. If the
17 court finds that there has been reasonably diligent effort to
18 give notice to a parent, guardian, or custodian and that the
19 effort has been unavailing, the hearing may proceed without
20 the notice having been served.

21 4. At the hearing to determine whether detention or
22 shelter care is authorized under section 232.21 or 232.22 the
23 court shall admit only testimony and other evidence relevant
24 to the determination of whether there is probable cause to
25 believe the child has committed the act as alleged in the
26 petition and to the determination of whether the placement of
27 the child in detention or shelter care is authorized under
28 section 232.21 or 232.22. At the hearing to determine whether
29 a child who has been waived for prosecution as a youthful
30 offender should be released from detention the court shall
31 also admit evidence of the kind admissible to determine bond
32 or bail under chapter 811, notwithstanding section 811.1. Any
33 written reports or records made available to the court at the
34 hearing shall be made available to the parties. A copy of the
35 petition or waiver order shall be given to each of the parties

1 at or before the hearing.

2 5. The court shall find release to be proper under the
3 following circumstances:

4 a. If the court finds that there is not probable cause to
5 believe that the child is a child within the jurisdiction of
6 the court under this chapter, it shall release the child and
7 dismiss the petition.

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

13 (1) Place the child in the custody of a parent, guardian
14 or custodian under that person's supervision, or under the
15 supervision of an organization which agrees to supervise the
16 child.

17 (2) Place restrictions on the child's travel, association,
18 or place of residence during the period of release.

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

23 (4) In the case of a child waived for prosecution as a
24 youthful offender, require bail, an appearance bond, or set
25 other conditions consistent with this section or section
26 811.2.

27 c. An order releasing a child on conditions specified in
28 this section may be amended at any time to impose equally or
29 less restrictive conditions. The order may be amended to
30 impose additional or more restrictive conditions, or to revoke
31 the release, if the child has failed to conform to the
32 conditions originally imposed.

33 6. If the court finds that there is probable cause to
34 believe that the child is within the jurisdiction of the court
35 under this chapter and that full-time detention or shelter

1 care is authorized under section 232.21 or 232.22 or that
2 detention is authorized under section 232.23, it may issue an
3 order authorizing either shelter care or detention until the
4 adjudicatory hearing or trial is held or for a period not
5 exceeding seven days, whichever is shorter. However, in the
6 case of a child placed in detention under section 232.23, this
7 period may be extended by agreement of the parties and the
8 court.

9 7. If a child held in shelter care or detention by court
10 order has not been released after a detention hearing or has
11 not appeared at an adjudicatory hearing before the expiration
12 of the order of detention, an additional hearing shall
13 automatically be scheduled for the next court day following
14 the expiration of the order. The child, the child's counsel,
15 the child's guardian ad litem, and the child's parent,
16 guardian or custodian shall be notified of this hearing not
17 less than twenty-four hours before the hearing is scheduled to
18 take place. The hearing required by this subsection may be
19 held by telephone conference call.

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

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

28 10. Based upon the facts stated in the request for release
29 the court may grant or deny the request without a hearing, or
30 may order that a hearing be held at a date, time and place
31 determined by the court. Notice of the hearing shall be given
32 to the child and the child's custodian or counsel. Upon
33 receiving evidence at the hearing, the court may release the
34 child to the child's custodian or other suitable person, or
35 may deny the request and remand the child to the detention or

1 shelter care facility.

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

4 Sec. 19. Section 232.45, subsection 1, Code 1997, is
5 amended to read as follows:

6 1. After the filing of a petition which alleges that a
7 child has committed a delinquent act on the basis of an
8 alleged commission of a public offense and before an
9 adjudicatory hearing on the merits of the petition is held,
10 the county attorney or the child may file a motion requesting
11 the court to waive its jurisdiction over the child for the
12 alleged commission of the public offense. If the county
13 attorney and the child agree, a motion for waiver for the
14 purpose of being prosecuted as a youthful offender may be
15 heard by the court which will have jurisdiction over the
16 criminal proceedings involving the child.

17 Sec. 20. Section 232.45, Code 1997, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 6A. At the conclusion of the waiver
20 hearing and after considering the best interests of the child
21 and the best interests of the community the court may, in
22 order that the child may be prosecuted as a youthful offender,
23 waive its jurisdiction over the child if all of the following
24 apply:

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

26 b. The court determines, or has previously determined in a
27 detention hearing under section 232.44, that there is probable
28 cause to believe that the child has committed a delinquent act
29 which would constitute a public offense under section 232.8,
30 subsection 1, paragraph "c", notwithstanding the application
31 of that paragraph to children aged sixteen or older.

32 c. The court determines that the state has established
33 that there are not reasonable prospects for rehabilitating the
34 child, prior to the child's eighteenth birthday, if the
35 juvenile court retains jurisdiction over the child and the

1 child enters into a plea agreement, is a party to a consent
2 decree, or is adjudicated to have committed the delinquent
3 act.

4 The court shall retain jurisdiction over the child for the
5 purpose of determining whether the child should be released
6 from detention under section 232.23.

7 Sec. 21. Section 232.45, Code 1997, is amended by adding
8 the following new subsection:

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

- 12 a. The nature of the alleged delinquent act and the
13 circumstances under which it was committed.
- 14 b. The nature and extent of the child's prior contacts
15 with juvenile authorities, including past efforts of such
16 authorities to treat and rehabilitate the child and the
17 response to such efforts.
- 18 c. The age of the child, the programs, facilities, and
19 personnel available to the juvenile court for rehabilitation
20 and treatment of the child, and the programs, facilities, and
21 personnel which would be available to the district court after
22 the child reaches the age of eighteen in the event the child
23 is given youthful offender status.

24 Sec. 22. Section 232.45, subsection 10, Code 1997, is
25 amended to read as follows:

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

32 Sec. 23. Section 232.45A, Code 1997, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 4. This section shall not apply to a
25 child who was waived to the district court for the purpose of

1 being prosecuted as a youthful offender.

2 Sec. 24. Section 232.50, subsection 1, Code 1997, is
3 amended to read as follows:

4 1. As soon as practicable following the entry of an order
5 of adjudication pursuant to section 232.47 or notification
6 that the child has received a youthful offender deferred
7 sentence pursuant to section 907.3A, the court shall hold a
8 dispositional hearing in order to determine what disposition
9 should be made of the matter.

10 Sec. 25. Section 232.52, subsection 1, Code 1997, is
11 amended to read as follows:

12 1. Pursuant to a hearing as provided in section 232.50,
13 the court shall enter the least restrictive dispositional
14 order appropriate in view of the seriousness of the delinquent
15 act, the child's culpability as indicated by the circumstances
16 of the particular case, the age of the child, and the child's
17 prior record, or the fact that the child has received a
18 youthful offender deferred sentence under section 907.3A. The
19 order shall specify the duration and the nature of the
20 disposition, including the type of residence or confinement
21 ordered and the individual, agency, department or facility in
22 whom custody is vested. In the case of a child who has
23 received a youthful offender deferred sentence, the initial
24 duration of the dispositional order shall be until the child
25 reaches the age of eighteen.

26 Sec. 26. Section 232.52, subsection 2, paragraph e,
27 subparagraph (4), Code 1997, is amended to read as follows:

28 (4) The child has previously been placed in a treatment
29 facility outside the child's home or in a supervised community
30 treatment program established pursuant to section 232.191,
31 subsection 4, as a result of a prior delinquency adjudication.

32 Sec. 27. Section 232.54, Code 1997, is amended by adding
33 the following new subsections:

34 NEW SUBSECTION. 7. With respect to a juvenile court
35 dispositional order entered regarding a child who has received

1 a youthful offender deferred sentence under section 907.3A,
2 the dispositional order may be terminated prior to the child
3 reaching the age of eighteen upon motion of the child, the
4 person or agency to whom custody of the child has been
5 transferred, or the county attorney following a hearing before
6 the juvenile court if it is shown by clear and convincing
7 evidence that it is in the best interests of the child and the
8 community to terminate the order. The district court shall
9 discharge the child's youthful offender status upon receiving
10 a termination order under this section.

11 NEW SUBSECTION. 8. With respect to a dispositional order
12 entered regarding a child who has received a youthful offender
13 deferred sentence under section 907.3A, the juvenile court
14 may, in the case of a child who violates the terms of the
15 order, modify or terminate the order in accordance with the
16 following:

17 a. After notice and hearing at which the facts of the
18 child's violation of the terms of the order are found, the
19 juvenile court may refuse to modify the order, modify the
20 order and impose a more restrictive order, or, after an
21 assessment of the child by a juvenile court officer in
22 consultation with the judicial district department of
23 correctional services and if the child is age fourteen or
24 over, terminate the order and return the child to the
25 supervision of the district court under chapter 907.

26 b. The juvenile court shall only terminate an order under
27 this subsection if after considering the best interests of the
28 child and the best interests of the community the court finds
29 that the child should be returned to the supervision of the
30 district court.

31 c. A youthful offender over whom the juvenile court has
32 terminated the dispositional order under this subsection shall
33 be treated in the manner of an adult who has been arrested for
34 a violation of probation under section 908.11 for sentencing
35 purposes only.

1 Sec. 28. Section 232.55, Code 1997, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. This section does not apply to
4 dispositional orders entered regarding a child who has
5 received a youthful offender deferred sentence under section
6 907.3A who is not discharged from probation before or upon the
7 child's eighteenth birthday.

8 Sec. 29. NEW SECTION. 232.56 YOUTHFUL OFFENDERS --
9 TRANSFER TO DISTRICT COURT SUPERVISION.

10 The juvenile court shall deliver a report, which includes
11 an assessment of the child by a juvenile court officer after
12 consulting with the judicial district department of
13 correctional services, to the district court prior to the
14 eighteenth birthday of a child who has received a youthful
15 offender deferred sentence under section 907.3A. A hearing
16 shall be held in the district court in accordance with section
17 907.3A to determine whether the child should be discharged
18 from youthful offender status or whether the child shall
19 continue under the supervision of the district court after the
20 child's eighteenth birthday.

21 Sec. 30. Section 232.141, subsection 3, paragraph c, Code
22 1997, is amended to read as follows:

23 c. Costs incurred under subsection 2 which are not paid by
24 the county under paragraphs "a" and "b" shall be reimbursed by
25 the state. Reimbursement for the costs of compensation of an
26 attorney appointed by the court to serve as counsel or
27 guardian ad litem shall be made as provided in section 815.7.
28 A county shall apply for reimbursement to the department of
29 inspections and appeals which shall prescribe rules and forms
30 to implement this subsection.

31 Sec. 31. Section 232.148, subsection 2, Code 1997, is
32 amended to read as follows:

33 2. Fingerprints and photographs of a child who has been
34 taken into custody ~~and who is fourteen years of age or older~~
35 may be taken and filed by a criminal or juvenile justice

1 agency investigating the commission of a public offense other
2 than a simple ~~or-serious~~ misdemeanor. The criminal or
3 juvenile justice agency shall forward the fingerprints to the
4 department of public safety for inclusion in the automated
5 fingerprint identification system and may also retain a copy
6 of the fingerprint card for comparison with latent
7 fingerprints and the identification of repeat offenders.

8 Sec. 32. Section 232.149, subsection 2, Code 1997, is
9 amended to read as follows:

10 2. Records and files of a criminal or juvenile justice
11 agency concerning a child involved in a delinquent act are
12 public records, except that ~~a-criminal-or-juvenile-justice~~
13 ~~agency-shall-not~~ release the name of ~~a-child-until-a-complaint~~
14 ~~is-filed-pursuant-to-section-232-28-and~~ criminal history data
15 ~~is~~, intelligence data, and law enforcement investigatory files
16 are subject to the provisions of section 22.7 and chapter 692.
17 The records are subject to sealing under section 232.150
18 unless the juvenile court waives its jurisdiction over the
19 child so that the child may be prosecuted as an adult for a
20 public offense.

21 Sec. 33. Section 232.149, Code 1997, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 3. Notwithstanding subsection 2, if a
24 juvenile who has been placed in detention under section
25 232.22, escapes from the facility, the criminal or juvenile
26 justice agency may release the name of the juvenile, the facts
27 surrounding the escape, and the offense or alleged offense
28 which resulted in the placement of the juvenile in the
29 facility.

30 Sec. 34. NEW SECTION. 279.9B REPORTS TO JUVENILE
31 AUTHORITIES.

32 The rules adopted under section 279.8 shall require, once
33 school officials have been notified by a juvenile court
34 officer that a student attending the school is under
35 supervision or has been placed on probation, that school

1 officials shall notify the juvenile court of each unexcused
2 absence or suspension or expulsion of the student.

3 Sec. 35. NEW SECTION. 280.24 PROCEDURES FOR REPORTING
4 DRUG OR ALCOHOL POSSESSION OR USE.

5 The board of directors of each public school and the
6 authorities in charge of each accredited nonpublic school
7 shall prescribe procedures which require school officials to
8 report any use or possession of alcoholic liquor, wine, or
9 beer or any controlled substance on school premises to local
10 law enforcement agencies, if the use or possession is in
11 violation of school policy or state law.

12 Sec. 36. NEW SECTION. 280.25 INFORMATION SHARING.

13 The board of directors of each public school and the
14 authorities in charge of each accredited nonpublic school
15 shall adopt rules which provide that the school district or
16 school may share information contained within a student's
17 permanent record pursuant to an interagency agreement with the
18 department of human services, school and law enforcement
19 authorities, and other signatory agencies. The purpose of the
20 agreement shall be to reduce juvenile crime by promoting
21 cooperation and collaboration and the sharing of appropriate
22 information between the parties in a joint effort to improve
23 school safety, reduce alcohol and illegal drug use, reduce
24 truancy, reduce in-school and out-of-school suspensions, and
25 to support alternatives to in-school and out-of-school
26 suspensions and expulsions which provide structured and well-
27 supervised educational programs supplemented by coordinated
28 and appropriate services designed to correct behaviors that
29 lead to truancy, suspension, and expulsions and to support
30 students in successfully completing their education.

31 Information shared under the agreement shall be used solely
32 for determining the programs and services appropriate to the
33 needs of the juvenile or the juvenile's family, or
34 coordinating the delivery of programs and services to the
35 juvenile or the juvenile's family. Information shared under

1 the agreement is not admissible in any court proceedings which
2 take place prior to a disposition hearing, unless written
3 consent is obtained from a student's parent, guardian, or
4 legal or actual custodian. Confidential information shared
5 between the parties to the agreement shall remain confidential
6 and shall not be shared with any other person, unless
7 otherwise provided by law.

8 A school or school district entering into an interagency
9 agreement under this section shall adopt a policy implementing
10 the provisions of the interagency agreement. The policy shall
11 include, but not be limited to, the provisions of the
12 interagency agreement and the procedures to be used by the
13 school or school district to share information from the
14 student's permanent record with participating agencies. The
15 policy shall be published in the student handbook.

16 Sec. 37. Section 321.216B, Code 1997, is amended to read
17 as follows:

18 321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S
19 IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

20 A person who is under the age of twenty-one, who alters or
21 displays or has in the person's possession a fictitious or
22 fraudulently altered motor vehicle license or nonoperator's
23 identification card and who uses the license to violate or
24 attempt to violate section 123.47 ~~or 23-47A~~, commits a simple
25 misdemeanor punishable by a fine of one hundred dollars. The
26 court shall forward a copy of the conviction or order of
27 adjudication under section 232.47 to the department.

28 Sec. 38. Section 331.653, subsection 4, Code 1997, is
29 amended to read as follows:

30 4. Provide bailiff and other law enforcement service to
31 the district judges, district associate judges, and associate
32 juvenile judges, and judicial magistrates of the county upon
33 request.

34 Sec. 39. Section 331.653, subsection 58, Code 1997, is
35 amended to read as follows:

1 58. Report information on crimes committed and delinquent
2 acts committed, which would be an a serious or aggravated
3 misdemeanor or felony if committed by an adult, and furnish
4 disposition reports on persons arrested and juveniles taken
5 into custody, for a delinquent act which would be an a serious
6 or aggravated misdemeanor or felony if committed by an adult,
7 and criminal complaints or information or juvenile delinquency
8 petitions, alleging a delinquent act which would be an a
9 serious or aggravated misdemeanor or felony if committed by an
10 adult, filed in any court as provided in section 692.15.

11 Sec. 40. Section 602.1211, subsection 4, Code 1997, is
12 amended to read as follows:

13 4. A chief judge may designate other public officers to
14 accept bond money or security under section 232.23 or 811.2 at
15 times when the office of the clerk of court is not open.

16 Sec. 41. Section 602.8102, subsection 125, Code 1997, is
17 amended to read as follows:

18 125. Furnish a disposition of each criminal complaint or
19 information or juvenile delinquency petition, alleging a
20 delinquent act which would be an a serious or aggravated
21 misdemeanor or felony if committed by an adult, filed in the
22 district or juvenile court to the department of public safety
23 as provided in section 692.15.

24 Sec. 42. Section 692.1, subsections 1 and 9, Code 1997,
25 are amended to read as follows:

26 1. "Adjudication data" means information that an
27 adjudication of delinquency for an act which would be an a
28 serious or aggravated misdemeanor or felony if committed by an
29 adult was entered against a juvenile and includes the date and
30 location of the delinquent act and the place and court of
31 adjudication.

32 9. "Custody data" means information pertaining to the
33 taking into custody, pursuant to section 232.19, of a juvenile
34 for a delinquent act which would be an a serious or aggravated
35 misdemeanor or felony if committed by an adult, and includes

1 the date, time, place, and facts and circumstances of the
2 delinquent act. Custody data includes warrants for the taking
3 into custody for all delinquent acts outstanding and not
4 served and includes the filing of a petition pursuant to
5 section 232.35, the date and place of the alleged delinquent
6 act, and the county of jurisdiction.

7 Sec. 43. Section 724.26, Code 1997, is amended to read as
8 follows:

9 724.26 RECEIPT, TRANSPORTATION, AND DOMINION AND CONTROL
10 OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

11 A person who is convicted of a felony in a state or federal
12 court, or who is adjudicated delinquent on the basis of
13 conduct that would constitute a felony if committed by an
14 adult, and who knowingly has under the person's dominion and
15 control, receives, or transports or causes to be transported a
16 firearm or offensive weapon is guilty of a class "D" felony.

17 Sec. 44. Section 805.8, subsection 10, paragraphs a and b,
18 Code 1997, are amended by striking the paragraphs.

19 Sec. 45. Section 815.7, Code 1997, is amended to read as
20 follows:

21 815.7 FEES TO ATTORNEYS.

22 An attorney who has not entered into a contract authorized
23 under section 13B.4 and who is appointed by the court to
24 represent any person charged with a crime in this state or to
25 serve as counsel or guardian ad litem to a person in juvenile
26 court in this state shall be entitled to a reasonable
27 compensation which shall be the ordinary and customary charges
28 for like services in the community to be decided in each case
29 by a judge of the district court or of the juvenile court, as
30 applicable, including such sum or sums as the court may
31 determine are necessary for investigation in the interests of
32 justice and in the event of appeal the cost of obtaining the
33 transcript of the trial and the printing of the trial record
34 and necessary briefs in behalf of the defendant. However, the
35 reasonable compensation awarded an attorney shall not be

1 calculated based upon an hourly rate that exceeds the rate a
2 contract attorney as provided in section 13B.4 would receive
3 in a similar case. Such attorney need not follow the case
4 into another county or into the appellate court unless so
5 directed by the court at the request of the defendant, where
6 grounds for further litigation are not capricious or
7 unreasonable, but if such attorney does so, the attorney's fee
8 shall be determined accordingly. Only one attorney fee shall
9 be so awarded in any one case except that in class "A" felony
10 cases, two may be authorized.

11 Sec. 46. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED
12 SENTENCE -- YOUTHFUL OFFENDER STATUS.

13 1. Notwithstanding section 907.3, the trial court shall,
14 upon a plea of guilty or a verdict of guilty, defer sentence
15 of a youthful offender over whom the juvenile court has waived
16 jurisdiction pursuant to section 232.45, subsection 6A, and
17 place the juvenile on youthful offender status. The court
18 shall transfer supervision of the youthful offender to the
19 juvenile court for disposition in accordance with section
20 232.52. The court shall require supervision of the youthful
21 offender in accordance with section 232.54, subsection 8 or
22 subsection 2, of this section.

23 2. The court shall hold a hearing prior to a youthful
24 offender's eighteenth birthday to determine whether the
25 youthful offender shall continue on youthful offender status
26 after the youthful offender's eighteenth birthday under the
27 supervision of the court or be discharged. The court shall
28 review the report of the juvenile court regarding the youthful
29 offender and shall hear evidence by or on behalf of the
30 youthful offender, by the county attorney, and by the person
31 or agency to whom custody of the youthful offender was
32 transferred. The court shall make its decision after
33 considering the services available to the youthful offender,
34 the evidence presented, the juvenile court's report, the
35 interests of the youthful offender, and interests of the

1 community.

2 3. Notwithstanding any provision of the Code which
3 prescribes a mandatory minimum sentence for the offense
4 committed by the youthful offender, following transfer of the
5 youthful offender from the juvenile court back to the court
6 having jurisdiction over the criminal proceedings involving
7 the youthful offender, the court may continue the youthful
8 offender deferred sentence or enter a sentence, which may be a
9 suspended sentence. However, a youthful offender shall not be
10 placed on probation for longer than five years. During the
11 period of probation, a youthful offender who violates the
12 terms of probation is subject to section 908.11.

13 Sec. 47. Section 908.11, Code 1997, is amended to read as
14 follows:

15 908.11 VIOLATION OF PROBATION.

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

1 conditions of probation or a youthful offender status. If the
2 defendant is an adult or a youthful offender the court may
3 hold the defendant in contempt of court and sentence the
4 defendant to a jail term while continuing the probation or
5 youthful offender status, order the defendant to be placed in
6 a violator facility established pursuant to section 904.207
7 while continuing the probation or youthful offender status, or
8 revoke the probation or youthful offender status and require
9 the defendant to serve the sentence imposed or any lesser
10 sentence, and, if imposition of sentence was deferred, may
11 impose any sentence which might originally have been imposed.

12 Sec. 48. Section 910A.5, subsection 3, Code 1997, is
13 amended to read as follows:

14 3. If a complaint is filed under section 232.28, alleging
15 a child has committed a delinquent act, the alleged victim may
16 file a signed victim impact statement with the juvenile court
17 as provided by section 232.28. The victim impact statement
18 shall be considered by the court and the juvenile court
19 officer handling the complaint in any proceeding or informal
20 adjustment associated with the complaint. In addition, the
21 victim shall be allowed to orally present the victim impact
22 statement in any informal adjustment, disposition, or other
23 proceeding which disposes of the complaint.

24 Sec. 49. Section 123.47A, Code 1997, is repealed.

25 EXPLANATION

26 This bill makes a variety of changes that relate to illegal
27 conduct by juveniles and youthful offenders, including
28 violations of alcohol regulations, the sharing of information
29 regarding delinquent juveniles and juveniles under the
30 jurisdiction of various social services agencies, the sharing
31 of jurisdiction between the adult and juvenile courts for
32 certain youthful offenders, and the authorization of school
33 officials to report possession or use of alcohol or controlled
34 substances to law enforcement authorities.

35 The definition of "legal age" under the alcoholic beverages

1 control act is changed from nineteen to twenty-one.

2 Code section 123.47 is amended to make purchases or
3 attempts to purchase and possession of alcohol by persons who
4 are under legal age a simple misdemeanor which is punishable
5 by a fine of \$100. A second or subsequent offense by a person
6 under the legal age, however, will be a serious misdemeanor
7 punishable by a fine of \$200 and suspension of the person's
8 operating privileges for a period not to exceed one year. A
9 first offense would no longer be treated as a scheduled
10 violation punishable by a \$15 fine. Sales, gifts, or the
11 supplying of alcohol by persons who are not alcohol licensees
12 or permittees to persons who are under legal age are made
13 serious misdemeanors punishable by a fine of \$500. However,
14 if serious injury results from the sale, gift, or supplying of
15 alcohol, the violation is an aggravated misdemeanor, which is
16 punishable by imprisonment of not more than two years and a
17 fine of at least \$500 and not more than \$5,000. If death
18 results, the violation is a class "D" felony, which is
19 punishable by imprisonment of not more than five years and a
20 fine of at least \$500 but not more than \$7,500. Sales or
21 supplying of alcoholic beverages to persons under legal age by
22 persons who are licensed or have a permit to sell alcoholic
23 beverages is made a serious misdemeanor, punishable by a fine
24 of \$1,500 and the imposition of civil penalties as determined
25 by the administrator of the alcoholic beverages division of
26 the department of commerce or local liquor control
27 authorities.

28 Peace officers are now required to make reasonable attempts
29 to notify elementary or secondary school officials of the
30 school that a minor attends, if the peace officer discovers
31 that the minor is in possession of alcohol.

32 The dramshop act is expanded to cover persons who do not
33 possess a permit or license to sell or supply alcohol, but who
34 do sell or supply alcohol to others.

35 Code section 321.216B is amended to make the penalty

1 applicable to the alteration of a driver's license or a
2 nonoperator's identification card for purposes of illegally
3 purchasing alcohol a fine of \$100.

4 Code section 232.19 is amended to allow a peace officer to
5 restrain any juvenile who presents a risk of danger or injury
6 to the child or others, or is taken into custody for an act of
7 violence against a person. Currently, if the child is 13
8 years of age or older, the child may be restrained by metal
9 handcuffs only when a transporting vehicle is not equipped
10 with a rear seat prisoner transport cage and the child is
11 being taken into custody for an alleged delinquent act of
12 violence against a person. Code section 232.19 is amended to
13 provide that the name of a juvenile taken into custody for a
14 delinquent act which would be a serious or an aggravated
15 misdemeanor or a felony is a public record when the juvenile
16 is taken into custody. Code section 232.28 is amended to
17 provide that a complaint alleging the commission of a
18 delinquent act by a juvenile is a public record if the
19 delinquent act alleged is a serious misdemeanor or greater.
20 Currently, the delinquent act must be an aggravated
21 misdemeanor or greater for the complaint to be a public
22 record. The section is also amended to permit the
23 presentation of oral victim impact statements in any
24 proceeding disposing of a complaint against a juvenile.

25 The criteria for placement in the state training school are
26 expended to include consideration of prior placement in a
27 supervised community treatment program as a result of a
28 delinquency adjudication.

29 The reimbursement mechanism for court-appointed attorney
30 fees in juvenile matters is amended to provide that the limits
31 and mechanisms established for payment for counsel for
32 indigents in adult cases apply.

33 A provision is added to section 123.149 to provide that
34 information regarding the escape of a juvenile from placement
35 in a detention facility may be released. Schools will also be

1 required to adopt rules which require school officials to
2 notify juvenile court officers of a student's unexcused
3 absence or suspension or expulsion, once the school officials
4 have been notified that the student is under supervision or
5 has been placed on probation.

6 Code sections 331.653 and 602.8102 are amended to add
7 serious misdemeanors to the list of offenses currently
8 reported by the sheriff and the court to the department of
9 public safety. Code section 692.1 is amended to provide that
10 criminal history data regarding juveniles shall be maintained
11 by the department of public safety if the juvenile is
12 adjudicated delinquent of a serious misdemeanor or greater.
13 Currently, criminal history data is maintained only for
14 juveniles adjudicated delinquent for aggravated misdemeanors
15 or felonies.

16 The bill also makes numerous changes to Code chapter 232,
17 changes Code section 602.1211, and creates a new Code section
18 907.3A to provide for shared jurisdiction between the adult
19 and juvenile courts over a juvenile who has committed certain
20 crimes. A juvenile who commits certain crimes would become
21 subject to the jurisdiction of the district court to be tried
22 or to plead guilty as an adult and would receive a deferred
23 sentence and be placed on youthful offender probation as an
24 adult. The juvenile would then be transferred to the
25 supervision of the juvenile court which would enter a
26 dispositional order as if it had adjudicated the juvenile a
27 delinquent. At the juvenile's eighteenth birthday, unless
28 supervision is terminated sooner by the juvenile court, the
29 juvenile would be returned to the district court for a hearing
30 at which the court will determine whether the juvenile, now an
31 adult, should continue on youthful offender status or be
32 discharged from youthful offender status as an adult.

33 Juveniles eligible for youthful offender status are those
34 under the age of 16 who commit drug offenses while possessing
35 a firearm or offensive weapon, criminal gang participation

1 involving a firearm or offensive weapon, a felony violation of
2 Code chapter 724 regarding firearms or offensive weapons, or a
3 forcible felony. These are the same offenses for which
4 juveniles age 16 or 17 are excluded from the jurisdiction of
5 the juvenile court.

6 The bill provides that a juvenile may attain youthful
7 offender status through the waiver of jurisdiction process in
8 the manner that juveniles are currently waived from the
9 jurisdiction of the juvenile court. The juvenile court can
10 waive its jurisdiction for the purpose of the juvenile being
11 prosecuted as a youthful offender after considering the best
12 interests of the child and community, the resources available
13 to the juvenile court prior to the juvenile's eighteenth
14 birthday, and whether the juvenile should be subject to
15 continued court supervision past the juvenile's eighteenth
16 birthday.

17 A juvenile who is waived for the purpose of being
18 prosecuted as a youthful offender would be held in a juvenile
19 detention facility prior to trial, unless released on bail.
20 Pretrial release conditions, if any, would be determined by
21 the juvenile court at a detention hearing. The juvenile will
22 be supervised by a juvenile court officer or juvenile court
23 services personnel while in detention or on pretrial release.

24 In addition, juveniles who receive youthful offender
25 deferred sentences shall be subject to the supervision of the
26 juvenile court while on youthful offender status until age 18,
27 unless the juvenile court sooner terminates its supervision
28 because it believes the juvenile has been rehabilitated or the
29 juvenile violates the terms of the juvenile court's order. If
30 the termination is due to a violation of the terms of the
31 order, the juvenile is treated the same as an adult who has
32 been arrested for a probation violation. In this case, a
33 juvenile could be sentenced as an adult for the youthful
34 offender status violation, including the reinstatement of the
35 deferred sentence and commitment to the department of

1 corrections.

2 The bill provides that if the juvenile is still on youthful
3 offender status under juvenile court supervision as the
4 juvenile's eighteenth birthday approaches, the juvenile will
5 have a hearing before the district court to determine if
6 youthful offender status will continue. The district court
7 may continue the youthful offender status for the offender
8 after age 18 is reached after considering the best interests
9 of the offender and the community. At this point, the
10 offender will be treated the same as other adults who have
11 received a deferred sentence and been placed on probation
12 regarding services or placement. However, although the bill
13 provides that youthful offenders are to be treated as adults,
14 youthful offender deferred sentences will be given for
15 offenses which would not be eligible for deferred sentence if
16 committed by an adult.

17 Code section 724.26 is amended to add language which
18 includes juveniles who have been adjudicated delinquent on the
19 basis of conduct that would constitute a felony if committed
20 by an adult within the prohibition against convicted felons
21 being able to receive, transport, or have dominion or control
22 over a firearm.

23 Two new sections are added to the chapter governing uniform
24 school requirements, Code chapter 280, to provide for the
25 reporting of illegal drug or alcohol use on school premises to
26 law enforcement and for the sharing of information between
27 school officials and various agencies pursuant to interagency
28 agreements designed to reduce juvenile crime, improve school
29 safety, reduce truancy, reduce suspensions and expulsions, and
30 to support various alternatives which support students in
31 successfully completing their education.

32 This bill may create a state mandate under chapter 25B.

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**SENATE FILE 515
FISCAL NOTE**

A fiscal note for **Senate File 515** 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.

Senate File 515 allows Youthful Offender Status for youths under age 16 who have committed specified crimes, and requires that such youths receiving deferred sentences are supervised by the Juvenile Court until age 18, and beyond under certain circumstances. Senate File 515 also relates to juvenile possession of alcohol, changes provisions, civil responsibilities, and penalties associated with illegal purchase or possession of alcohol by juveniles, provides for information exchange and notice for schools, social service agencies, public safety officials, and the courts, changes admission criteria for the State Training School, provides for payment of attorneys, allows certain information concerning juveniles to be public record, and may create a State mandate under the Code of Iowa, Chapter 25B.

ASSUMPTIONS:

1. Concerning changes in alcohol penalties, data is not currently available on simple misdemeanors, and it is unknown what deterrent effect will result from increased penalties. It is unknown how many charges for serious misdemeanors will occur. The Iowa Department of Public Safety reports 3,648 juvenile arrests and an additional 7,710 arrests of persons aged 18 to 20 for liquor law violations in 1990. An increase in revenues is anticipated due to the change, but the actual increase will depend upon the vigor of fines collection efforts.
2. Approximately 150 juveniles are eligible to be placed under the new Youthful Offender jurisdiction, of which 23 are currently waived to adult court. Twelve of these juveniles will continue to be tried as adults and supervised by 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 eligible for Youthful Offender jurisdiction are currently 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 will be no change in services received by these juveniles.
4. There will be 75 juveniles entering the Youthful Offender Program each year, and 15.0% of these 75 juveniles (11) will leave the Program annually due to behavior and be ordered into the custody or supervision of the

-2-

Department of Corrections. 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 supervision from community corrections staff.

5. Because adult corrections programs cost less than 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 DHS services by age 18 will be placed in custody or under the supervision of the Department of Corrections. Under current law these persons do not enter the adult corrections system unless they commit a new offense. There will be an additional cost of \$95,000 for the costs 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 reaching the age of 18 or violating 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 \$200 to the State (for court-appointed counsel) and an additional \$200 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 \$200 to the State (for court-appointed counsel) and an additional \$200 to the county of jurisdiction (for county attorney time.) Many juveniles will elect to waive their hearings and submit to Youthful Offender jurisdiction. The total additional cost to the Public Defender is estimated to be \$20,000, with an additional \$20,000 to the counties.
8. There may be additional cost to the Juvenile Court to track assessment and collection of fines, as the Juvenile Court currently does not assess fines. There is also a potential for delay of proceedings due to including the oral Victim Impact Statement in any proceeding or informal adjustment, since time would be required for notification of a victim.
9. There will be additional unknown costs to the schools for mandatory reporting of unexcused absences, suspensions, and expulsions to the Juvenile Court, and for information sharing between the schools, social service agencies, public safety employees, and the courts specified in Section 36 of the Bill.

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 Correction; due to

-3-

behavior. The net impact is a reduction in the prison population of seven offenders annually.

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 will result in an annual State cost of \$284,000 and an additional annual cost to counties of \$20,000, and an unknown process costs to the Judicial Department and schools due to changes in juvenile alcohol provisions and reporting. The estimate assumes a lag effect of six months, resulting in 50.0% of the cost realized in FY 1998, and the full cost annually thereafter.

SOURCES

Criminal and Juvenile Justice Planning Division,
Department of Human Rights
Department of Education
Department of Public Safety
Judicial Department
Department of Inspections and Appeals

(LSB 1515sv, MMB)

FILED MARCH 26, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR



SENATE FILE 515

S-3236

1 Amend Senate File 515, as follows:

2 1. Page 1, line 34, by inserting after the word
3 "person's" the following: "motor vehicle".

4 2. Page 1, line 35, by inserting after the word
5 "year." the following: "The court may, in its
6 discretion, order the person who is under legal age to
7 perform community service work under section 909.3A,
8 of an equivalent value to the fine imposed under this
9 section. A person who is under the age of eighteen
10 who commits a violation of this section shall not be
11 detained or placed in a secure facility instead of
12 paying, or for failure to pay, the fine imposed under
13 this section. The chief judge of each judicial
14 district shall designate a person who is responsible
15 for ensuring that any fines imposed are collected."

16 3. Page 3, by inserting after line 11, the
17 following:

18 "Sec. ____ . NEW SECTION. 123.47C FURNISHING
19 CEREAL BEVERAGE WITH ALCOHOL CONTENT TO PERSONS UNDER
20 LEGAL AGE -- PENALTY.

21 A person shall not sell, give, or otherwise supply
22 to a person who is under legal age any cereal beverage
23 with any alcohol content under the name of "near
24 beer", "brew", "bru", or any other name which conveys
25 or implies to the purchaser or recipient that the
26 beverage has an alcohol content. A person who
27 violates this section commits a serious misdemeanor."

28 4. Page 4, by striking lines 2 through 25 and
29 inserting the following:

30 "Sec. ____ . Section 123.92, Code 1997, is amended
31 by adding the following new unnumbered paragraph:
32 NEW UNNUMBERED PARAGRAPH. Any person who is
33 injured in person or property or means of support by
34 an intoxicated person who is under legal age or
35 resulting from the intoxication of a person who is
36 under legal age, has a right of action for all damages
37 actually sustained, severally or jointly, against any
38 person who sold or served any beer, wine, or
39 intoxicating liquor to the person under legal age when
40 the person who sold or served the beer, wine, or
41 intoxicating liquor knew or should have known the
42 under-age person was intoxicated, or who sold to and
43 served the under-age person to a point where the
44 person knew or should have known the under-age person
45 would become intoxicated. If the injury was caused by
46 an intoxicated person who is under the legal age, a
47 person who sold or served beer, wine, or intoxicating
48 liquor to the under-age person may establish as an
49 affirmative defense that the intoxication did not
50 contribute to the injurious action of the under-age

S-3236

1

S-3236

Page 2

B 1 person."

2 5. Page 5, by inserting after line 23 the
3 following:

4 "Sec. _____. Section 216A.138, Code 1997, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 5A. The plan shall include
7 development of a resource guide outlining successful
8 programs and practices established within this state
9 which are designed to promote positive youth
10 development and that assist delinquent and other at-
11 risk youth in overcoming personal and social problems.
12 The guide shall be made publicly available."

13 6. Page 8, line 2, by striking the words "The
14 written" and inserting the following: "In addition,
15 the victim may orally present a victim impact
16 statement. The".

17 7. Page 8, by striking lines 5 through 9 and
18 inserting the following: "informal adjustment
19 associated with the complaint."

20 8. Page 17, by inserting after line 29 the
21 following:

22 "Sec. _____. Section 232.150, subsection 1,
23 unnumbered paragraph 1, Code 1997, is amended to read
24 as follows:

25 Upon application of a person who was taken into
26 custody for a delinquent act or, who was the subject
27 of a complaint alleging delinquency or, who was the
28 subject of a delinquency petition, or who committed a
29 violation of section 123.47, or upon the court's own
30 motion, the court, after hearing, shall order the
31 records in the case including those specified in
32 sections 232.147 and 232.149 sealed if the court finds
33 all of the following:"

34 9. Page 20, by inserting after line 15 the
35 following:

36 "Sec. _____. Section 602.6110, Code 1997, is amended
37 to read as follows:

38 602.6110 PEER REVIEW COURT ---PILOT-PROJECTS.

39 1. A peer review court is may be established as-a
40 pilot-program in each judicial district to divert
41 certain youthful offenders from the criminal or
42 juvenile justice systems. The court shall consist of
43 a qualified adult to act as judge with while the
44 duties of prosecutor, defense counsel, court
45 attendant, clerk, and jury composed-of shall be
46 performed by persons ten twelve through seventeen
47 years of age.

A 48 2. The jurisdiction of the peer review court
49 extends to those persons ten through seventeen years
50 of age who have committed misdemeanor offenses, or

S-3236

-2-

S-3236

Page 3

1 delinquent acts which would be misdemeanor offenses if
 2 committed by an adult, ~~and who have entered a plea of~~
 3 ~~guilty who have admitted involvement in the~~
 4 ~~misdemeanor or delinquent act, entered and who meet~~
 5 ~~the criteria established for entering into an informal~~
 6 ~~adjustment agreement, or agreed to the entry of a~~
 7 ~~consent decree to for those offenses in district or~~
 8 ~~juvenile court. Those persons may then elect to~~
 9 appear before the peer review court ~~to receive~~
 10 ~~sentence for a determination of the terms and~~
 11 ~~conditions of the informal adjustment or may elect to~~
 12 ~~proceed with the informal or formal procedures~~
 13 established in chapter 232.

14 3. The peer review court shall not determine guilt
 15 or innocence and any statements or admissions made by
 16 the person before the peer review court are not
 17 admissible in any formal proceedings involving the
 18 same person. The peer review court shall only
 19 determine the ~~sentence for~~ terms and conditions of the
 20 informal adjustment for the offense. The ~~sentence~~
 21 ~~terms and conditions~~ may consist of fines,
 22 restrictions for damages, attendance at treatment
 23 programs, or community service work or any combination
 24 of these ~~penalties as appropriate to the offense or~~
 25 ~~delinquent act committed.~~ A person appearing before
 26 the peer review court may also be required to serve as
 27 a juror on the court as a part of the person's
 28 sentence.

29 ~~3. 4. Subject to the agreement of the chief judge~~
 30 ~~of the judicial district, the supreme court shall~~
 31 ~~designate two judicial districts in which to locate a~~
 32 ~~peer review court pilot project.~~ The chief judge of
 33 ~~the each judicial district which establishes a peer~~
 34 ~~review court shall appoint a peer review court~~
 35 advisory board. The advisory board shall adopt rules
 36 for the peer review court advisory program, shall
 37 appoint persons to serve on the peer review court, and
 38 shall supervise the expenditure of funds appropriated
 39 to the program."

40 10. Title page 1, line 3, by striking the words
 41 "and tobacco".

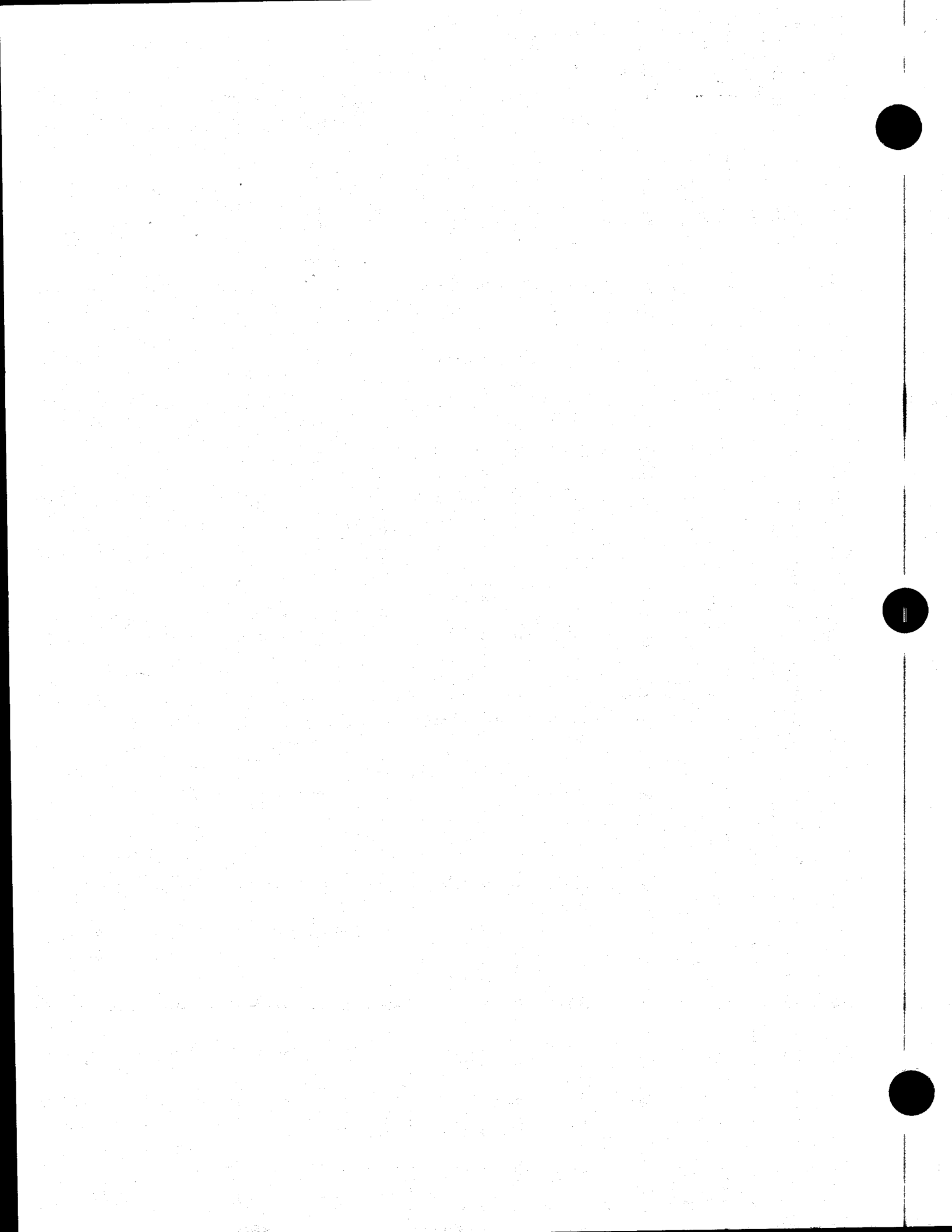
42 11. Title page 1, line 22, by inserting after the
 43 word "probation," the following: "providing for
 44 establishment of statewide peer review courts for
 45 youthful offenders,".

46 12. Title page 2, by striking lines 4 and 5 and
 47 inserting the following: "authorizing school
 48 officials to report possession or".

49 13. By numbering and renumbering as necessary.
 By O. GENE MADDOX MAGGIE TINSMAN
 JOHNIE HAMMOND NANCY BOETTGER

S-3236 FILED MARCH 26, 1997

A. Adopted
 B. " 4/1/97
 C. " (p. 898) - Motion to R/c - Motion Reversed - Adopted as Amended 4/2
 C. as Amended - Adopted 4/2/97 (p. 910)



SENATE FILE 515

S-3264

1 Amend Senate File 515, as follows:

- 2 1. Page 2, line 2, by inserting after the word
3 "person" the following: "who is of legal age".
4 2. Page 2, line 7, by inserting after the word
5 "person" the following: "who is of legal age".
6 3. Page 2, line 12, by inserting after the word
7 "person" the following: "who is of legal age".
8 4. Page 2, line 20, by striking the words
9 "EIGHTEEN YEARS OF" and inserting the following:
10 "~~EIGHTEEN-YEARS-OF~~ LEGAL".
11 5. Page 2, line 21, by striking the word "A" and
12 inserting the following: "1. A".
13 6. Page 2, line 32, by inserting after the word
14 "make" the following: "a reasonable effort to
15 identify a person over the age of eighteen but under
16 legal age who is discovered to be in possession of
17 alcoholic liquor, wine, or beer in violation of
18 section 123.47, and the law enforcement agency of
19 which the peace officer is an employee shall make a
20 reasonable attempt to notify the person's custodial
21 parent or legal guardian of the possession, whether or
22 not the person is arrested or a citation is issued,
23 unless the officer has reasonable grounds to believe
24 that the notification is not in the best interest of
25 the person or will endanger the person.
26 2. The peace officer shall also make".
27 7. Page 2, line 34, by inserting after the word
28 "attends" the following: "if the person is enrolled
29 in elementary or secondary school".
-
- 30 8. Page 3, line 30, by striking the word "A" and
31 inserting the following: "A Except as otherwise
32 provided in section 123.50A, a".
33 9. Page 4, by inserting after line 1, the
34 following:
35 "Sec. ____ . NEW SECTION. 123.50A LICENSEE AND
36 PERMITTEE STRUCTURED FINES PILOT PROJECT.
37 1. A licensee and permittee structured fines pilot
38 project is established in the fifth judicial district
39 for purposes of assessing appropriate fines for
40 licensees and permittees who do either of the
41 following:
42 a. Sell, give, or otherwise supply alcoholic
43 beverages, wine, or beer to any person while knowing,
44 or failing to exercise reasonable care to ascertain
45 whether, the person is under legal age.
46 b. Permit any person to consume any alcoholic
47 beverage, wine, or beer while knowing, or failing to
48 exercise reasonable care to ascertain whether, the
49 person is under legal age.
50 2. The chief judge of the fifth judicial district,

S-3264

S-3264

Page 2

1 in consultation with the county attorneys of the
 2 counties located within the judicial district, local
 3 public defender, representatives of the private
 4 defense bar, the court administrator, the director of
 5 pretrial services, the director of the judicial
 6 district department of correctional services, and
 7 members of the boards of supervisors of the counties
 8 located within the judicial district, shall establish
 9 a structured fine program which takes into
 10 consideration the facts underlying the offense, the
 11 age of the person to whom the alcoholic beverage,
 12 wine, or beer was sold, given, or supplied, any harm
 13 caused by the commission of the offense, the ability
 14 of the offender to pay a fine, and the likelihood that
 15 the offender will commit the offense again. Fines
 16 assessed shall be within the parameters established
 17 for fines applicable to serious misdemeanor violations
 18 under section 903.1."

B

19 10. Title page, line 5, by striking the words "of
 20 school officials".

A

21 11. Title page, line 6, by striking the words "by
 22 students," and inserting the following: "by persons
 23 under legal age,"

24 9. By numbering and renumbering as necessary.

By TOM VILSACK

S-3264 FILED MARCH 26, 1997

A. adopted }
 B. Lost } 4-1-97
 (P.894)

SENATE FILE 515

S-3291

- 1 Amend Senate File 515, as follows:
2 1. Page 1, by striking lines 16 through 19, and
3 inserting the following: "beer given or dispensed to
4 a person under the age of eighteen within a private
5 home and with the knowledge, presence, and consent of
6 the parent or guardian, for beverage or medicinal
7 purposes ~~or-as~~; except in the case of liquor, wine, or
8 beer given or dispensed for beverage or medicinal
9 purposes to a person who is age eighteen, nineteen, or
10 twenty within a private home and with the knowledge,
11 presence, and consent of the person's parent or
12 guardian or with the signed written consent of the
13 parent or guardian specifying the date and place for
14 the consumption and displayed by the person upon
15 demand; except in the case of liquor, wine, or beer
16 administered to the person by".
17 2. Page 1, line 20, by striking the word
18 "purposes" and inserting the following: "purposes;".
By WILLIAM FINK

S-3291 FILED MARCH 31, 1997
LOST 3-31-97 (P 861)

SENATE FILE 515

S-3295

- 1 Amend the amendment, S-3236, to Senate File 515, as
2 follows:
3 1. Page 1, by striking line 28 and inserting the
4 following:
5 "_____. By striking page 4, line 2, through page 5,
6 line 15, and".
7 2. Page 1, lines 37 and 38, by striking the words
8 "any person" and inserting the following: "a person
9 who is not a licensee or permittee and".
10 3. Page 1, line 40, by striking the word "person"
11 and inserting the following: "the nonlicensee or
12 nonpermittee".
13 4. Page 1, line 44, by striking the word "person"
14 and inserting the following: "nonlicensee or
15 nonpermittee".
16 5. Page 1, line 47, by inserting after the word
17 "person" the following: "who is not a licensee or
18 permittee and".

By O. GENE MADDOX

S-3295 FILED MARCH 31, 1997
WITHDRAWN
3-31-97

(P 861)

SENATE FILE 515

S-3288

1 Amend Senate File 515 as follows:

2 1. Page 5, by inserting after line 23 the
3 following:

4 "Sec. ____ . NEW SECTION. 217.44 TRUANCY ACADEMY
5 DEMONSTRATION PROGRAM ESTABLISHED.

6 1. Subject to an appropriation of sufficient funds
7 by the general assembly, the department of human
8 services, in consultation with the department of
9 education, the department of workforce development,
10 the Iowa department of public health, the division of
11 criminal and juvenile justice planning of the
12 department of human rights, institutions of higher
13 learning with applicable programs, and the division of
14 job training and entrepreneurship assistance of the
15 department of economic development, shall establish a
16 four-year truancy academy demonstration program in
17 Polk county that commences in the fiscal year
18 beginning July 1, 1997. The truancy academy
19 demonstration program shall be designed to reduce
20 juvenile crime and the truancy rate of students of
21 compulsory school attendance age. The department
22 shall locate a truancy academy in Polk county as a
23 residential facility.

24 2. The program shall include active participation
25 by community-based youth organizations, school
26 corporations, and local, state, and federal agencies.
27 The program shall provide for positive peer coaching
28 and early truancy intervention, and shall address
29 school dropout and absenteeism, juvenile court
30 involvement, family conflict, unemployment, teenage
31 suicide, youth mental health, substance abuse, and
32 other health problems.

33 3. The department of human services shall
34 coordinate an evaluation initiative designed to
35 investigate program effectiveness in reducing juvenile
36 crime and the truancy rate within Polk county. In
37 developing the evaluation initiative, the department
38 shall consult with the department of education, the
39 department of workforce development, the Iowa
40 department of public health, the division of criminal
41 and juvenile justice planning of the department of
42 human rights, institutions of higher learning with
43 applicable programs, and the division of job training
44 and entrepreneurship assistance of the department of
45 economic development.

46 4. A program participant shall be a person of
47 compulsory attendance age as defined in section
48 299.1A, who is at least twelve years of age, and who
49 has failed to attend school as provided in chapter 299
50 for ten or more days, without a reasonable excuse for

S-3288

-1-

S-3288

Page 2

1 the absence. The board of directors of a school
2 district or the authorities in charge of an accredited
3 nonpublic school may provide the department with the
4 names of persons deemed truant as provided in this
5 section and section 299.8.

6 5. The program shall provide at a minimum
7 recreation opportunities, personal skills development,
8 academic skills development, family interaction
9 opportunities, and mentoring. Additional objectives
10 of the program shall be to increase the ability of
11 existing agencies within the local community to
12 address the multiple problems of truant youth and to
13 coordinate their activities and to facilitate joint
14 planning to make the most economic and innovative use
15 of community resources. The program shall provide
16 career development services, mental health and family
17 counseling services, and primary health care services
18 that include, but are not limited to physical
19 examinations, immunizations, hearing and vision
20 screening, and preventive and primary health care
21 services, in the context of the educational needs of
22 the program participants. The primary goal of the
23 program shall be to return a successful student to a
24 regular classroom, an alternative options education
25 program as provided in section 280.19A, or to private
26 instruction as provided in chapter 299A.

27 6. The director of human services shall establish
28 a local advisory board, whose members at a minimum
29 shall include a representative of the private industry
30 council serving the area, parents of children who have
31 been deemed truant as provided in section 299.8, a
32 teacher recommended by the local teachers association,
33 a representative from the health and mental health
34 community in the area, teenagers enrolled in the
35 school and recommended by the school student
36 government, a representative from the nonprofit
37 provider community, and a representative from the
38 juvenile court system serving the area. Management of
39 the program shall be by school districts in the area
40 or by a nonprofit youth service organization. As used
41 in this subsection, "youth service" means recreational
42 services, employment services, civic services, or
43 juvenile treatment services.

44 7. If a child is deemed to be truant for ten or
45 more days under subsection 4, the school truancy
46 officer may provide notification to the department of
47 human services. An initial and any subsequent
48 notification shall be made in writing. A school
49 truancy officer may release information to the
50 department of human services as provided in section

S-3288

-2-

S-3288

Page 3

1 279.9A.

2 8. The council on human services shall adopt rules
3 under chapter 17A for the administration of this
4 section."

5 2. Page 17, by inserting after line 29 the
6 following:

7 "Sec. ____ . Section 279.9A, Code 1997, is amended
8 to read as follows:

9 279.9A INFORMATION SHARING.

10 1. The rules referred to in section 279.9 shall
11 provide that upon the request of school officials of a
12 school to which the student seeks to transfer or has
13 transferred, school officials of the sending school
14 shall provide an accurate record of any suspension or
15 expulsion actions taken, and the basis for those
16 actions taken, against the student under sections
17 279.9, 280.19A, 282.3, 282.4, and 282.5. The
18 designated representative shall disclose this
19 information only to those school employees whose
20 duties require them to be involved with the student.
21 For purposes of this section, "school employees" means
22 persons employed by a nonpublic school or school
23 district, or any area education agency staff member
24 who provides services to a school or school district.

25 2. a. The board of directors of each public
26 school and the authorities in charge of each
27 accredited nonpublic school shall adopt rules which
28 provide that the school district or school may share
29 information contained within a student's permanent
30 record pursuant to an interagency agreement with the
31 department of human services, school and law
32 enforcement authorities, and other signatory agencies.
33 The board of directors or authorities shall limit the
34 information shared pursuant to an interagency
35 agreement to that information which is necessary to
36 achieve the purpose of the agreement. The purpose of
37 the agreement shall be to reduce juvenile crime by
38 promoting cooperation and collaboration and the
39 sharing of appropriate information between the parties
40 in a joint effort to improve school safety, reduce
41 truancy, reduce school suspensions and expulsions, and
42 to support alternatives to suspensions and expulsions
43 which provide structured and well-supervised
44 educational programs supplemented by coordinated and
45 appropriate services designed to correct behaviors
46 that lead to truancy, suspension, and expulsion, and
47 to support students in successfully completing their
48 education. Information shared under the agreement
49 shall be used solely for determining the programs and
50 services appropriate to the needs of the student or

S-3288

-3-

S-3288

Page 4

1 the student's family, or coordinating the delivery of
2 programs and services to the student or the student's
3 family. Information shared under the agreement is not
4 admissible in any court proceedings which take place
5 prior to a disposition hearing, unless written consent
6 is obtained from a student's parent, guardian, or
7 legal or actual custodian.

8 b. A school or school district entering into an
9 interagency agreement under this section shall adopt a
10 policy implementing the provisions of the interagency
11 agreement. The policy shall include, but not be
12 limited to, the provisions of the interagency
13 agreement and the procedures to be used by the school
14 or school district to share information from the
15 student's permanent record with participating
16 agencies. The policy shall be published in the
17 student handbook."

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

20 "Sec. ____ . Section 299.5A, unnumbered paragraph 1,
21 Code 1997, is amended to read as follows:

22 If a child is truant as defined in section 299.8,
23 school officers shall attempt to find the cause for
24 the child's absence and use every means available to
25 the school to assure that the child does attend. The
26 board of directors of a school district or the
27 authorities in charge of an accredited nonpublic
28 school may utilize the provisions of section 217.44 in
29 addition to the provisions of this section or section
30 299.6 to assure the child's attendance. A child
31 participating in a truancy academy, as provided in
32 section 217.44, shall not be considered truant. If
33 the parent, guardian, or legal or actual custodian, or
34 child refuses to accept the school's attempt to assure
35 the child's attendance or the school's attempt to
36 assure the child's attendance is otherwise
37 unsuccessful, the truancy officer shall refer the
38 matter to the county attorney for mediation or
39 prosecution."

40 4. Title page 2, line 7, by inserting after the
41 word "authorities" the following: ", conditionally
42 establishing a truancy academy demonstration program
43 and providing for information sharing between school
44 officials and various agencies pursuant to interagency
45 agreements designed to reduce truancy".

46 5. By renumbering as necessary.

By MATT McCOY

S-3288 FILED MARCH 31, 1997

Lost 4-1-97
(A 896)

SENATE FILE 515

S-3284

1 Amend Senate File 515 as follows:

2 1. Page 5, by inserting after line 23, the
3 following:

4 "Sec. ____ . Section 232.2, Code 1997, is amended by
5 adding the following new subsection:

6 NEW SUBSECTION. 47A. "Runaway" means a child who
7 voluntarily is absent from the household in which the
8 child resides without the consent of the child's
9 parent, guardian, or other custodian."

10 2. Page 16, by inserting after line 20, the
11 following:

12 "Sec. ____ . Section 232.126, unnumbered paragraph
13 1, Code 1997, is amended to read as follows:

14 The court shall appoint counsel or a guardian ad
15 litem to represent the interests of the child at the
16 hearing to determine whether the family is a family in
17 need of assistance unless the child already has such
18 counsel or guardian. If the petition alleges that the
19 child is a runaway, the court shall appoint counsel to
20 represent the interests of the child, unless the child
21 already has counsel. The court shall appoint counsel
22 for the parent, guardian or custodian if that person
23 desires but is financially unable to employ counsel.

24 Sec. ____ . Section 232.127, subsections 1, 7, and
25 9, Code 1997, are amended to read as follows:

26 1. Upon the filing of a petition, the court shall
27 fix a time for a hearing and give notice thereof to
28 the child and the child's parent, guardian or
29 custodian. If the petition alleges that the child is
30 a runaway, the petition and a written enumeration of
31 the rights specified in section 232.128 shall be
32 served upon the child within a reasonable time before
33 hearing.

34 7. The Except as otherwise provided in section
35 232.128, the court may shall not order the child
36 placed on probation, in a foster home or in a
37 nonsecure facility unless the child requests and
38 agrees to such supervision or placement. In-no-event
39 shall-the The court may order the child placed in the
40 state-training-school-or-other a secure facility only
41 under the conditions specified in section 232.128.

42 9. A child found in contempt of court because of
43 violation of conditions imposed under this section
44 shall not be considered delinquent. Such a contempt
45 may be punished by imposition of a work assignment or
46 assignments to benefit the state or a governmental
47 subdivision of the state. In addition to or in lieu
48 of such an assignment or assignments, the court may
49 impose one of the dispositions set out in sections
50 232.100 to through 232.102 or section 232.128.

S-3284

-1-

S-3284

Page 2

1 Sec. ____ . NEW SECTION. 232.128 RUNAWAYS.

2 1. If the petition alleges that the child is a
3 runaway, the child shall, prior to and at the hearing,
4 be informed of all of the following:

5 a. The right to have a written copy of the
6 petition served upon the child within a reasonable
7 time before the hearing on the petition.

8 b. The right to a hearing before the court.

9 c. The right to legal counsel, including the right
10 to court-appointed legal counsel if the child is
11 indigent.

12 d. The right to an explanation of the nature and
13 consequences of the hearing.

14 e. The right to present and confront witnesses.

15 f. The right to a transcript or record of the
16 proceedings.

17 g. The right to appeal to an appropriate court.

18 2. At the hearing, the court shall not order the
19 child placed in a secure facility, but may impose one
20 of the dispositions set out in sections 232.100
21 through 232.102. The court shall inform the child
22 that violation of the terms of the dispositional order
23 may result in placement in a secure facility. The
24 court shall send a copy of any dispositional order
25 placing the child in a nonsecure setting to the agency
26 or facility responsible for supervision, counseling,
27 or treatment of the child.

28 3. If the child violates the terms of the
29 dispositional order, the agency or facility shall
30 notify the court of the violation and submit a report
31 to the court reviewing the behavior of the child and
32 the circumstances under which the child was brought
33 before the court. The report shall also include an
34 assessment of the reasons for the child's behavior and
35 recommendations for appropriate continuing or
36 alternative placements. Upon receipt of the notice
37 and report, the court shall fix a date and time for a
38 hearing to determine whether the child violated the
39 terms of the dispositional order. Notice of the
40 grounds alleged as the basis for the violation of the
41 dispositional order and of the date, time, and place
42 of hearing shall be served upon the child.

43 4. At the violation hearing, the court shall
44 review the report and determine what, if any,
45 modifications should be made in the original
46 dispositional order. If the modification in the
47 dispositional order directs or authorizes placement of
48 the child in a secure facility, the court must
49 determine that there is no less restrictive
50 alternative appropriate to the needs of the child and

S-3284

-2-

S-3284

Page 3

1 the community.

2 5. This section shall not apply to a child who is
3 a child in need of assistance."4 3. Title page 1, line 19, by inserting after the
5 word "facility," the following: "providing for
6 dispositional alternatives for runaways,".

7 4. By numbering and renumbering as necessary.

By WILLIAM PALMER

S-3284 FILED MARCH 31, 1997

*Adopted 4-1-97**(p. 895)*

SENATE FILE 515

S-3281

1 Amend Senate File 515 as follows:

2 1. Page 17, line 16, by inserting after the
3 figure "692" the following: "and juvenile court
4 social records, as defined in section 232.2,
5 subsection 31, shall be deemed confidential criminal
6 identification files under section 22.7, subsection
7 9".

By JOHNIE HAMMOND

S-3281 FILED MARCH 31, 1997

Adopted 4-1-97 (p. 896)

SENATE FILE 515

S-3282

1 Amend the amendment, S-3236, to Senate File 515 as
2 follows:3 1. Page 2, lines 14 and 15, by striking the words
4 "In addition, the victim may" and inserting the
5 following: "Unless the matter is disposed of at the
6 preliminary inquiry conducted by the intake officer
7 under section 232.28, the victim may also".

By JOHNIE HAMMOND

S-3282 FILED MARCH 31, 1997

DEFERRED

*Adopted**4-1-97**(p. 893)*

SENATE FILE 515

S-3309

1 Amend the amendment, S-3236, to Senate File 515, as
2 follows:
3 1. Page 1, by inserting after line 27, the
4 following:
5 "____. Page 3, by striking lines 12 and 13."
6 2. By striking page 1, line 28, through page 2,
7 line 1, and inserting the following:
8 "____. By striking page 4, line 2 through page 5,
9 line 15 and inserting the following:
10 "Sec. ____ . Section 123.92, Code 1997, is amended
11 by adding the following new unnumbered paragraph:
12 NEW UNNUMBERED PARAGRAPH. Notwithstanding section
13 123.49, subsection 1, any person who is injured in
14 person or property or means of support by an
15 intoxicated person who is under legal age or resulting
16 from the intoxication of a person who is under legal
17 age, has a right of action for all damages actually
18 sustained, severally or jointly, against a person who
19 is not a licensee or permittee and who dispensed or
20 gave any beer, wine, or intoxicating liquor to the
21 intoxicated under-age person when the nonlicensee or
22 nonpermittee who dispensed or gave the beer, wine, or
23 intoxicating liquor to the under-age person knew or
24 should have known the under-age person was
25 intoxicated, or who dispensed or gave beer, wine, or
26 intoxicating liquor to the under-age person to a point
27 where the nonlicensee or nonpermittee knew or should
28 have known that the under-age person would become
29 intoxicated. If the injury was caused by an
30 intoxicated person who is under legal age, a person
31 who is not a licensee or permittee and who dispensed
32 or gave beer, wine, or intoxicating liquor to the
33 under-age person may establish as an affirmative
34 defense that the intoxication did not contribute to
35 the injurious action of the under-age person."
36 3. By numbering and renumbering as necessary.

By O. GENE MADDOX

S-3309 FILED APRIL 1, 1997

LOST, MOTION TO RECONSIDER FILED

4.1.97

by Boettger

4/2/97 Motion to R/c adopted

4/2/97 Adopted 4/2/97 (P. 911)



SENATE FILE 515

S-3324

1 Amend Senate File 515 as follows:

2 1. Page 20, by inserting after line 23 the
3 following:

4 "Sec. ____ . Section 622.10, unnumbered paragraph 1,
5 Code 1997, is amended to read as follows:

6 A practicing attorney, counselor, physician,
7 surgeon, physician assistant, mental health
8 professional, or the stenographer or confidential
9 clerk of any such person, who obtains information by
10 reason of the person's employment, or a member of the
11 clergy shall not be allowed, in giving testimony, to
12 disclose any confidential communication properly
13 entrusted to the person in the person's professional
14 capacity, and necessary and proper to enable the
15 person to discharge the functions of the person's
16 office according to the usual course of practice or
17 discipline. The prohibition does not apply to cases
18 where the person in whose favor the prohibition is
19 made waives the rights conferred; nor does the
20 prohibition apply to physicians or surgeons,
21 physician's assistants, mental health professionals,
22 or to the stenographer or confidential clerk of any
23 physicians or surgeons, physician's assistants, or
24 mental health professionals, in a civil action in
25 which the condition of the person in whose favor the
26 prohibition is made is an element or factor of the
27 claim or defense of the person or of any party
28 claiming through or under the person. The prohibition
29 also does not apply to cases in which the
30 communication pertains to chemical test results of
31 specimens of a person's blood, breath, or urine which
32 are obtained under chapter 321J. The evidence is
33 admissible upon trial of the action only as it relates
34 to the condition alleged."

35 2. Title page 1, line 4, by inserting after the
36 word "dramshop" the following: "and other alcohol-
37 related".

38 3. By numbering and renumbering and changing
39 internal references as necessary.

By TOM FLYNN

S-3324 FILED APRIL 1, 1997
RULED OUT OF ORDER

4-1-97 (P. 896)

SENATE FILE 515

S-3323

1 Amend the amendment, S-3236, to Senate File 515, as
2 follows:

3 1. Page 1, by inserting after line 27, the
4 following:

5 "____. Page 3, by striking lines 12 and 13."

6 2. By striking page 1, line 28, through page 2,
7 line 1, and inserting the following:

8 "____. By striking page 4, line 2 through page 5,
9 line 15 and inserting the following:

10 "Sec. ____ . Section 123.92, Code 1997, is amended
11 by adding the following new unnumbered paragraph:

12 NEW UNNUMBERED PARAGRAPH. Notwithstanding section
13 123.49, subsection 1, any person who is injured in
14 person or property or means of support by a person who
15 is under legal age and who is under the influence of
16 beer, wine, or intoxicating liquor or resulting from
17 the acts or omissions of a person who is under legal
18 age and who is under the influence of beer, wine, or
19 intoxicating liquor, has a right of action for all
20 damages actually sustained, severally or jointly,
21 against a person who is not a licensee or permittee
22 and who dispensed or gave any beer, wine, or
23 intoxicating liquor to the under-age person who is
24 under the influence of beer, wine, or intoxicating
25 liquor when the nonlicensee or nonpermittee who
26 dispensed or gave the beer, wine, or intoxicating
27 liquor to the under-age person knew or should have
28 known the under-age person was intoxicated, or who
29 dispensed or gave beer, wine, or intoxicating liquor
30 to the under-age person to a point where the
31 nonlicensee or nonpermittee knew or should have known
32 that the under-age person would be under the influence
33 of beer, wine, or intoxicating liquor. If the injury
34 was caused by an intoxicated person who is under legal
35 age, a person who is not a licensee or permittee and
36 who dispensed or gave beer, wine, or intoxicating
37 liquor to the under-age person may establish as an
38 affirmative defense that the influence of beer, wine,
39 or intoxicating liquor did not contribute to the
40 injurious action of the under-age person.""

41 3. By numbering and renumbering as necessary.

By TOM VILSACK

S-3323 FILED APRIL 1, 1997

LOST

4-1-97

(P. 897)

SENATE FILE 515

S-3327

- 1 Amend the amendment, S-3236, to Senate File 515 as
2 follows:
3 1. Page 1, line 27, by striking the words
4 "serious misdemeanor" and inserting the following:
5 "simple misdemeanor punishable by a fine of not more
6 than one hundred dollars".

By JEFF ANGELO

S-3327 FILED APRIL 2, 1997
ADOPTED 4/2/97 (p.909)

SENATE FILE 515

S-3334

- 1 Amend the amendment, S-3236, to Senate File 515, as
2 follows:
3 1. Page 1, by striking lines 18 through 20 and
4 inserting the following:
5 "Sec. ____ . NEW SECTION. 123.47C CEREAL BEVERAGE
6 WITH ALCOHOL -- PERSONS UNDER LEGAL AGE -- PENALTIES."
7 2. Page 1, by inserting after line 27 the
8 following:
9 "A person who is under legal age shall not possess
10 any cereal beverage with any alcohol content under the
11 name of "near beer", "brew", "bru", or any other name
12 which conveys or implies to the person that the
13 beverage has an alcohol content. A person who
14 violates this section commits a simple misdemeanor
15 punishable by a fine of one hundred dollars."

By STEVE D. HANSEN

S-3334 FILED APRIL 2, 1997
WITHDRAWN 4/2/97

SENATE FILE 515

S-3336

1 Amend Senate File 515 as follows:

2 1. Page 3, by inserting before line 12 the
3 following:

4 "Sec. ____ . NEW SECTION. 123.47D CEREAL BEVERAGE
5 WITH ALCOHOL -- PERSONS UNDER LEGAL AGE -- PENALTIES.

6 A person who is under legal age shall not possess
7 any cereal beverage with any alcohol content under the
8 name of "near beer", "brew", "bru", or any other name
9 which conveys or implies to the person that the
10 beverage has an alcohol content. A person who
11 violates this section commits a simple misdemeanor
12 punishable by a fine of one hundred dollars. A person
13 who is under the age of eighteen who commits a
14 violation of this section shall not be detained or
15 placed in a secure facility instead of paying, or for
16 failure to pay, the fine imposed under this section.
17 The chief judge of each judicial district shall
18 designate a person who is responsible for ensuring
19 that any fines imposed are collected."

20 2. Page 21, by inserting after line 18 the
21 following:

22 "Sec. ____ . Section 805.16, subsection 1, Code
23 1997, is amended to read as follows:

24 1. Except as provided in subsection 2 of this
25 section, a peace officer shall issue a police citation
26 or uniform citation and complaint, in lieu of making a
27 warrantless arrest, to a person under eighteen years
28 of age accused of committing a simple misdemeanor
29 under chapter 321, 321G, 461A, 461B, 462A, 481A, 481B,
30 483A, 484A, 484B, section 123.47 or 123.47D, or a
31 local ordinance not subject to the jurisdiction of the
32 juvenile court, and shall not detain or confine the
33 person in a facility regulated under chapter 356 or
34 356A."

35 3. By renumbering as necessary

By STEVE D. HANSEN

S-3336 FILED APRIL 2, 1997

ADOPTED 4/2/97 (p. 916)

191
H-417197 Amended & re-written

H-410197 Unfinished Business
w/H-1570
Colenda

SENATE FILE **515**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 154)

*****CORRECTED COPY*****

(AS AMENDED AND PASSED BY THE SENATE APRIL 2, 1997)

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

Re-Passed Senate, Date 4/23/97 (p. 1524) Passed House, Date 4-15-97 (p. 1249)
 Vote: Ayes 40 Nays 8 Vote: Ayes 92 Nays 7
 Approved May 7, 1998
 (p. 1524) Passed 4/24/97
 vote 93-4

A BILL FOR

- 1 An Act relating to juvenile justice and youthful offenders, by
- 2 making changes in provisions relating to illegal purchase or
- * 3 possession of alcohol by juveniles and youthful offenders,
- 4 making changes relating to dramshop liability, providing for
- * 5 notification of possession of alcohol by persons under legal
- 6 age, providing for the taking of fingerprints and photographs
- 7 of certain juveniles, permitting victims to make oral victim
- 8 impact statements in juvenile proceedings, making changes
- 9 related to the supplying of alcohol to persons under the age
- 10 of twenty-one, providing for sharing of information regarding
- 11 delinquent juveniles and juveniles under the jurisdiction of
- 12 various social services agencies, providing for shared
- 13 jurisdiction between the adult and juvenile courts over
- 14 youthful offenders, changing the criteria for placement in the
- 15 state training school or other facility, making changes
- 16 relating to state reimbursement for expenses of court-
- 17 appointed attorneys in juvenile court, permitting the release

S.F. 515

1 of information relating to juveniles who have escaped from a
2 detention facility, providing for notification of juvenile
3 court authorities of unexcused absences or suspensions or
4 expulsions of students who are on probation, providing for
5 establishment of statewide peer review courts for youthful
6 offenders, providing for bailiff and other law enforcement
7 assistance to associate juvenile judges, including arrest or
8 disposition or custody or adjudication data in criminal
9 history data kept by the department of public safety,
10 authorizing school officials to report possession or use of
11 alcohol or controlled substances to law enforcement
12 authorities.

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

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1 Section 1. Section 123.3, subsection 19, Code 1997, is
2 amended to read as follows:

3 19. "Legal age" means ~~nineteen~~ twenty-one years of age or
4 more.

5 Sec. 2. Section 123.47, Code 1997, is amended to read as
6 follows:

7 123.47 PERSONS UNDER THE LEGAL AGE ~~OF-EIGHTEEN~~ -- PENALTY.

8 1. A person shall not sell, give, or otherwise supply
9 alcoholic liquor, wine, or beer to any person knowing or
10 having reasonable cause to believe that person to be under the
11 legal age of-eighteen,-and-a.

12 2. A person or persons under the legal age ~~of-eighteen~~
13 shall not purchase or attempt to purchase, or individually or
14 jointly have alcoholic liquor, wine, or beer in their
15 possession or control; except in the case of liquor, wine, or
16 beer given or dispensed to a person under the legal age of
17 ~~eighteen~~ within a private home and with the knowledge,
18 presence, and consent of the parent or guardian, for beverage
19 or medicinal purposes or as administered to the person by
20 either a physician or dentist for medicinal purposes and
21 except to the extent that a person under the legal age of
22 ~~eighteen~~ may handle alcoholic beverages, wine, and beer during
23 the regular course of the person's employment by a liquor
24 control licensee, or wine or beer permittee under this
25 chapter.

26 3. A person who is under legal age, other than a licensee
27 or permittee, who violates this section regarding the purchase
28 of or attempt to purchase alcoholic liquor, wine, or beer
29 ~~shall-pay-a-twenty-five-dollar-penalty,~~ or possessing or
30 having control of alcoholic liquor, wine, or beer, commits a
31 simple misdemeanor punishable by a fine of one hundred dollars
32 for the first offense. A second or subsequent offense shall
33 be a serious misdemeanor punishable by a fine of two hundred
34 dollars and the suspension of the person's motor vehicle
35 operating privileges for a period not to exceed one year. The

1 court may, in its discretion, order the person who is under
2 legal age to perform community service work under section
3 909.3A, of an equivalent value to the fine imposed under this
4 section. A person who is under the age of eighteen who
5 commits a violation of this section shall not be detained or
6 placed in a secure facility instead of paying, or for failure
7 to pay, the fine imposed under this section. The chief judge
8 of each judicial district shall designate a person who is
9 responsible for ensuring that any fines imposed are collected.

10 4. Except as otherwise provided in subsections 5 and 6, a
11 person who is of legal age, other than a licensee or
12 permittee, who sells, gives, or otherwise supplies alcoholic
13 liquor, wine, or beer to a person who is under legal age in
14 violation of this section commits a serious misdemeanor
15 punishable by a fine of five hundred dollars.

16 5. A person who is of legal age, other than a licensee or
17 permittee, who sells, gives, or otherwise supplies alcoholic
18 liquor, wine, or beer to a person who is under legal age in
19 violation of this section which results in serious injury to
20 the person who is under legal age commits an aggravated
21 misdemeanor.

22 6. A person who is of legal age, other than a licensee or
23 permittee, who sells, gives, or otherwise supplies alcoholic
24 liquor, wine, or beer to a person who is under legal age in
25 violation of this section which results in the death of the
26 person who is under legal age commits a class "D" felony.

27 Sec. 3. Section 123.47B, Code 1997, is amended to read as
28 follows:

29 123.47B PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER
30 EIGHTEEN-YEARS-OF LEGAL AGE.

31 1. A peace officer shall make a reasonable effort to
32 identify a person under the age of eighteen discovered to be
33 in possession of alcoholic liquor, wine, or beer in violation
34 of section 123.47 and if the person is not referred to
35 juvenile court, the law enforcement agency of which the peace

1 officer is an employee shall make a reasonable attempt to
2 notify the person's custodial parent or legal guardian of such
3 possession, whether or not the person is arrested or a
4 citation is issued pursuant to section 805.16, unless the
5 officer has reasonable grounds to believe that such
6 notification is not in the best interests of the person or
7 will endanger that person. The peace officer shall also make
8 a reasonable effort to identify a person over the age of
9 eighteen but under legal age who is discovered to be in
10 possession of alcoholic liquor, wine, or beer in violation of
11 section 123.47, and the law enforcement agency of which the
12 peace officer is an employee shall make a reasonable attempt
13 to notify the person's custodial parent or legal guardian of
14 the possession, whether or not the person is arrested or a
15 citation is issued, unless the officer has reasonable grounds
16 to believe that the notification is not in the best interest
17 of the person or will endanger the person.

18 2. The peace officer shall also make a reasonable effort
19 to identify the elementary or secondary school which the
20 person attends if the person is enrolled in elementary or
21 secondary school and to notify the superintendent or the
22 superintendent's designee of the school which the person
23 attends, or the authorities in charge of the nonpublic school
24 which the person attends, of the possession. If the person is
25 taken into custody, the peace officer shall notify a juvenile
26 court officer who shall make a reasonable effort to identify
27 the elementary or secondary school the person attends, if any,
28 and to notify the superintendent of the school district or the
29 superintendent's designee, or the authorities in charge of the
30 nonpublic school, of the taking into custody. A reasonable
31 attempt to notify the person includes but is not limited to a
32 telephone call or notice by first-class mail.

33 Sec. 4. NEW SECTION. 123.47C FURNISHING CEREAL BEVERAGE
34 WITH ALCOHOL CONTENT TO PERSONS UNDER LEGAL AGE -- PENALTY.

35 A person shall not sell, give, or otherwise supply to a

1 person who is under legal age any cereal beverage with any
2 alcohol content under the name of "near beer", "brew", "bru",
3 or any other name which conveys or implies to the purchaser or
4 recipient that the beverage has an alcohol content. A person
5 who violates this section commits a simple misdemeanor
6 punishable by a fine of not more than one hundred dollars.

7 Sec. 5. NEW SECTION. 123.47D CEREAL BEVERAGE WITH
8 ALCOHOL -- PERSONS UNDER LEGAL AGE -- PENALTIES.

9 A person who is under legal age shall not possess any
10 cereal beverage with any alcohol content under the name of
11 "near beer", "brew", "bru", or any other name which conveys or
12 implies to the person that the beverage has an alcohol
13 content. A person who violates this section commits a simple
14 misdemeanor punishable by a fine of one hundred dollars. A
15 person who is under the age of eighteen who commits a
16 violation of this section shall not be detained or placed in a
17 secure facility instead of paying, or for failure to pay, the
18 fine imposed under this section. The chief judge of each
19 judicial district shall designate a person who is responsible
20 for ensuring that any fines imposed are collected.

* 21 Sec. 6. Section 123.49, subsection 3, Code 1997, is
22 amended to read as follows:

23 3. No A person under legal age shall not misrepresent the
24 person's age for the purpose of purchasing or attempting to
25 purchase any alcoholic beverage, wine, or beer from any
26 licensee or permittee. If any person under legal age
27 misrepresents the person's age, and the licensee or permittee
28 establishes that the licensee or permittee made reasonable
29 inquiry to determine whether the prospective purchaser was
30 over legal age, the licensee or permittee is not guilty of
31 selling alcoholic liquor, wine, or beer to ~~minors~~ a person
32 under legal age.

33 Sec. 7. Section 123.50, subsection 1, Code 1997, is
34 amended to read as follows:

35 1. Any person who violates any of the provisions of

1 section 123.49, except subsection 2, paragraph "h", shall be
2 guilty of a simple misdemeanor. A person who violates section
3 123.49, subsection 2, paragraph "h", commits a simple serious
4 misdemeanor punishable as-a-scheduled-violation-under-section
5 805-87--subsection-107--paragraph-"b" by a fine of one thousand
6 five hundred dollars.

7 Sec. 8. Section 123.50, subsection 4, Code 1997, is
8 amended by striking the subsection.

9 Sec. 9. Section 123.92, Code 1997, is amended by adding
10 the following new unnumbered paragraph:

11 NEW UNNUMBERED PARAGRAPH. Notwithstanding section 123.49,
12 subsection 1, any person who is injured in person or property
13 or means of support by an intoxicated person who is under
14 legal age or resulting from the intoxication of a person who
15 is under legal age, has a right of action for all damages
16 actually sustained, severally or jointly, against a person who
17 is not a licensee or permittee and who dispensed or gave any
18 beer, wine, or intoxicating liquor to the intoxicated under-
19 age person when the nonlicensee or nonpermittee who dispensed
20 or gave the beer, wine, or intoxicating liquor to the under-
21 age person knew or should have known the under-age person was
22 intoxicated, or who dispensed or gave beer, wine, or
23 intoxicating liquor to the under-age person to a point where
24 the nonlicensee or nonpermittee knew or should have known that
25 the under-age person would become intoxicated. If the injury
26 was caused by an intoxicated person who is under legal age, a
27 person who is not a licensee or permittee and who dispensed or
28 gave beer, wine, or intoxicating liquor to the under-age
29 person may establish as an affirmative defense that the
30 intoxication did not contribute to the injurious action of the
31 under-age person.

*32 Sec. 10. Section 137C.25C, subsection 3, Code 1997, is
33 amended to read as follows:

34 3. The owner or operator reasonably believes that the
35 individual is using the premises for an unlawful purpose

1 including, but not limited to, the unlawful use or possession
2 of controlled substances or the use of the premises for the
3 consumption of alcohol by an individual in violation of
4 section 123.47 ~~or 123.47A~~.

5 Sec. 11. Section 216A.138, Code 1997, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 5A. The plan shall include development of
8 a resource guide outlining successful programs and practices
9 established within this state which are designed to promote
10 positive youth development and that assist delinquent and
11 other at-risk youth in overcoming personal and social
12 problems. The guide shall be made publicly available.

13 Sec. 12. Section 232.8, subsection 3, Code 1997, is
14 amended to read as follows:

15 3. The juvenile court, after a hearing and in accordance
16 with the provisions of section 232.45, may waive jurisdiction
17 of a child alleged to have committed a public offense so that
18 the child may be prosecuted as an adult or youthful offender
19 for such offense in another court. If the child, except a
20 child being prosecuted as a youthful offender, pleads guilty
21 or is found guilty of a public offense in another court of
22 this state that court may, with the consent of the child,
23 defer judgment and without regard to restrictions placed upon
24 deferred judgments for adults, place the child on probation
25 for a period of not less than one year upon such conditions as
26 it may require. Upon fulfillment of the conditions of
27 probation the child shall be discharged without entry of
28 judgment.

29 Sec. 13. Section 232.19, subsection 2, Code 1997, is
30 amended to read as follows:

31 2. When a child is taken into custody as provided in
32 subsection 1 the person taking the child into custody shall
33 notify the child's parent, guardian, or custodian as soon as
34 possible ~~and shall not~~. The person may place bodily
35 restraints, such as handcuffs, on the child unless if the

1 child physically resists; or threatens physical violence when
2 being taken into custody; is being taken into custody for an
3 alleged delinquent act of violence against a person; or when,
4 in the reasonable judgment of the officer, the child presents
5 a risk of injury to the child or others. However, if the
6 child is thirteen years of age or older, the child may be
7 restrained by metal handcuffs only, for the purpose of
8 transportation in a vehicle which is not equipped with a rear
9 seat cage for prisoner transport and if the child is being
10 taken into custody for an alleged delinquent act of violence
11 against a person. The child may also be restrained by
12 handcuffs or other restraints at any time after the child is
13 taken into custody if the child has a known history of
14 physical violence to others. Unless the child is placed in
15 shelter care or detention in accordance with the provisions of
16 section 232.21 or 232.22, the child shall be released to the
17 child's parent, guardian, custodian, responsible adult
18 relative, or other adult approved by the court upon the
19 promise of such person to produce the child in court at such
20 time as the court may direct.

21 Sec. 14. Section 232.19, Code 1997, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4. Information pertaining to a child
24 taken into custody for a delinquent act which would be a
25 public offense is a public record and is not confidential
26 under section 232.147.

27 Sec. 15. NEW SECTION. 232.23 DETENTION -- YOUTHFUL
28 OFFENDERS.

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

33 2. a. The court shall determine, at the detention hearing
34 under section 232.44, the amount of bail, appearance bond, or
35 other conditions necessary for a child who has been waived for

1 prosecution as a youthful offender to be released from
2 detention or that the child should not be released from
3 detention.

4 b. A child placed in detention or released under this
5 subsection shall be supervised by a juvenile court officer or
6 juvenile court services personnel.

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

9 Sec. 16. Section 232.28, subsection 10, Code 1997, is
10 amended to read as follows:

11 10. A complaint filed with the court or its designee
12 pursuant to this section which alleges that a child has
13 committed a delinquent act which if committed by an adult
14 would be ~~an aggravated misdemeanor or a felony shall be a~~
15 public offense is a public record and shall not be
16 confidential under section 232.147. The court, its designee,
17 or law enforcement officials are authorized to release the
18 complaint, including the identity of the child named in the
19 complaint.

20 Sec. 17. Section 232.28, subsection 11, Code 1997, is
21 amended to read as follows:

22 11. If a complaint is filed under this section, alleging a
23 child has committed a delinquent act, the alleged victim may
24 file a signed victim impact statement with the juvenile court
25 containing the information specified for a victim impact
26 statement under section 910A.5. Unless the matter is disposed
27 of at the preliminary inquiry conducted by the intake officer
28 under section 232.28, the victim may also orally present a
29 victim impact statement. The victim impact statement shall be
30 considered by the court and the juvenile court officer
31 handling the complaint in any proceeding or informal
32 adjustment associated with the complaint.

33 Sec. 18. Section 232.28A, subsection 1, paragraph d, Code
34 1997, is amended to read as follows:

35 d. To be notified of the person's right to offer a written

1 victim impact statement and to orally present the victim
2 impact statement under sections 232.28 and 910A.5.

3 Sec. 19. Section 232.44, Code 1997, is amended to read as
4 follows:

5 232.44 DETENTION OR SHELTER CARE HEARING -- RELEASE FROM
6 DETENTION UPON CHANGE OF CIRCUMSTANCE.

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

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

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

32 3. A notice shall be served upon the child, the child's
33 attorney, the child's guardian ad litem if any, and the
34 child's known parent, guardian, or custodian not less than
35 twelve hours before the time the hearing is scheduled to begin

1 and in a manner calculated fairly to apprise the parties of
2 the time, place, and purpose of the hearing. In the case of a
3 hearing for a child waived for prosecution as a youthful
4 offender, this notice may accompany the waiver order. If the
5 court finds that there has been reasonably diligent effort to
6 give notice to a parent, guardian, or custodian and that the
7 effort has been unavailing, the hearing may proceed without
8 the notice having been served.

9 4. At the hearing to determine whether detention or
10 shelter care is authorized under section 232.21 or 232.22 the
11 court shall admit only testimony and other evidence relevant
12 to the determination of whether there is probable cause to
13 believe the child has committed the act as alleged in the
14 petition and to the determination of whether the placement of
15 the child in detention or shelter care is authorized under
16 section 232.21 or 232.22. At the hearing to determine whether
17 a child who has been waived for prosecution as a youthful
18 offender should be released from detention the court shall
19 also admit evidence of the kind admissible to determine bond
20 or bail under chapter 811, notwithstanding section 811.1. Any
21 written reports or records made available to the court at the
22 hearing shall be made available to the parties. A copy of the
23 petition or waiver order shall be given to each of the parties
24 at or before the hearing.

25 5. The court shall find release to be proper under the
26 following circumstances:

27 a. If the court finds that there is not probable cause to
28 believe that the child is a child within the jurisdiction of
29 the court under this chapter, it shall release the child and
30 dismiss the petition.

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

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

5 (2) Place restrictions on the child's travel, association,
6 or place of residence during the period of release.

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

11 (4) In the case of a child waived for prosecution as a
12 youthful offender, require bail, an appearance bond, or set
13 other conditions consistent with this section or section
14 811.2.

15 c. An order releasing a child on conditions specified in
16 this section may be amended at any time to impose equally or
17 less restrictive conditions. The order may be amended to
18 impose additional or more restrictive conditions, or to revoke
19 the release, if the child has failed to conform to the
20 conditions originally imposed.

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

32 7. If a child held in shelter care or detention by court
33 order has not been released after a detention hearing or has
34 not appeared at an adjudicatory hearing before the expiration
35 of the order of detention, an additional hearing shall

1 automatically be scheduled for the next court day following
2 the expiration of the order. The child, the child's counsel,
3 the child's guardian ad litem, and the child's parent,
4 guardian or custodian shall be notified of this hearing not
5 less than twenty-four hours before the hearing is scheduled to
6 take place. The hearing required by this subsection may be
7 held by telephone conference call.

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

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

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

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

27 Sec. 20. Section 232.45, subsection 1, Code 1997, is
28 amended to read as follows:

29 1. After the filing of a petition which alleges that a
30 child has committed a delinquent act on the basis of an
31 alleged commission of a public offense and before an
32 adjudicatory hearing on the merits of the petition is held,
33 the county attorney or the child may file a motion requesting
34 the court to waive its jurisdiction over the child for the
35 alleged commission of the public offense. If the county

1 attorney and the child agree, a motion for waiver for the
2 purpose of being prosecuted as a youthful offender may be
3 heard by the court which will have jurisdiction over the
4 criminal proceedings involving the child.

5 Sec. 21. Section 232.45, Code 1997, is amended by adding
6 the following new subsection:

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

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

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

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

27 The court shall retain jurisdiction over the child for the
28 purpose of determining whether the child should be released
29 from detention under section 232.23.

30 Sec. 22. Section 232.45, Code 1997, is amended by adding
31 the following new subsection:

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

35 a. The nature of the alleged delinquent act and the

1 circumstances under which it was committed.

2 b. The nature and extent of the child's prior contacts
3 with juvenile authorities, including past efforts of such
4 authorities to treat and rehabilitate the child and the
5 response to such efforts.

6 c. The age of the child, the programs, facilities, and
7 personnel available to the juvenile court for rehabilitation
8 and treatment of the child, and the programs, facilities, and
9 personnel which would be available to the district court after
10 the child reaches the age of eighteen in the event the child
11 is given youthful offender status.

12 Sec. 23. Section 232.45, subsection 10, Code 1997, is
13 amended to read as follows:

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

20 Sec. 24. Section 232.45A, Code 1997, is amended by adding
21 the following new subsection:

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

25 Sec. 25. Section 232.50, subsection 1, Code 1997, is
26 amended to read as follows:

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

33 Sec. 26. Section 232.52, subsection 1, Code 1997, is
34 amended to read as follows:

35 1. Pursuant to a hearing as provided in section 232.50,

1 the court shall enter the least restrictive dispositional
2 order appropriate in view of the seriousness of the delinquent
3 act, the child's culpability as indicated by the circumstances
4 of the particular case, the age of the child, and the child's
5 prior record, or the fact that the child has received a
6 youthful offender deferred sentence under section 907.3A. The
7 order shall specify the duration and the nature of the
8 disposition, including the type of residence or confinement
9 ordered and the individual, agency, department or facility in
10 whom custody is vested. In the case of a child who has
11 received a youthful offender deferred sentence, the initial
12 duration of the dispositional order shall be until the child
13 reaches the age of eighteen.

14 Sec. 27. Section 232.52, subsection 2, paragraph e,
15 subparagraph (4), Code 1997, is amended to read as follows:

16 (4) The child has previously been placed in a treatment
17 facility outside the child's home or in a supervised community
18 treatment program established pursuant to section 232.191,
19 subsection 4, as a result of a prior delinquency adjudication.

20 Sec. 28. Section 232.54, Code 1997, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 7. With respect to a juvenile court
23 dispositional order entered regarding a child who has received
24 a youthful offender deferred sentence under section 907.3A,
25 the dispositional order may be terminated prior to the child
26 reaching the age of eighteen upon motion of the child, the
27 person or agency to whom custody of the child has been
28 transferred, or the county attorney following a hearing before
29 the juvenile court if it is shown by clear and convincing
30 evidence that it is in the best interests of the child and the
31 community to terminate the order. The district court shall
32 discharge the child's youthful offender status upon receiving
33 a termination order under this section.

34 NEW SUBSECTION. 8. With respect to a dispositional order
35 entered regarding a child who has received a youthful offender

1 deferred sentence under section 907.3A, the juvenile court
2 may, in the case of a child who violates the terms of the
3 order, modify or terminate the order in accordance with the
4 following:

5 a. After notice and hearing at which the facts of the
6 child's violation of the terms of the order are found, the
7 juvenile court may refuse to modify the order, modify the
8 order and impose a more restrictive order, or, after an
9 assessment of the child by a juvenile court officer in
10 consultation with the judicial district department of
11 correctional services and if the child is age fourteen or
12 over, terminate the order and return the child to the
13 supervision of the district court under chapter 907.

14 b. The juvenile court shall only terminate an order under
15 this subsection if after considering the best interests of the
16 child and the best interests of the community the court finds
17 that the child should be returned to the supervision of the
18 district court.

19 c. A youthful offender over whom the juvenile court has
20 terminated the dispositional order under this subsection shall
21 be treated in the manner of an adult who has been arrested for
22 a violation of probation under section 908.11 for sentencing
23 purposes only.

24 Sec. 29. Section 232.55, Code 1997, is amended by adding
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. This section does not apply to
27 dispositional orders entered regarding a child who has
28 received a youthful offender deferred sentence under section
29 907.3A who is not discharged from probation before or upon the
30 child's eighteenth birthday.

31 Sec. 30. NEW SECTION. 232.56 YOUTHFUL OFFENDERS --
32 TRANSFER TO DISTRICT COURT SUPERVISION.

33 The juvenile court shall deliver a report, which includes
34 an assessment of the child by a juvenile court officer after
35 consulting with the judicial district department of

1 correctional services, to the district court prior to the
2 eighteenth birthday of a child who has received a youthful
3 offender deferred sentence under section 907.3A. A hearing
4 shall be held in the district court in accordance with section
5 907.3A to determine whether the child should be discharged
6 from youthful offender status or whether the child shall
7 continue under the supervision of the district court after the
8 child's eighteenth birthday.

9 Sec. 31. Section 232.141, subsection 3, paragraph c, Code
10 1997, is amended to read as follows:

11 c. Costs incurred under subsection 2 which are not paid by
12 the county under paragraphs "a" and "b" shall be reimbursed by
13 the state. Reimbursement for the costs of compensation of an
14 attorney appointed by the court to serve as counsel or
15 guardian ad litem shall be made as provided in section 815.7.
16 A county shall apply for reimbursement to the department of
17 inspections and appeals which shall prescribe rules and forms
18 to implement this subsection.

19 Sec. 32. Section 232.148, subsection 2, Code 1997, is
20 amended to read as follows:

21 2. Fingerprints and photographs of a child who has been
22 taken into custody ~~and who is fourteen years of age or older~~
23 may be taken and filed by a criminal or juvenile justice
24 agency investigating the commission of a public offense other
25 than a simple ~~or serious~~ misdemeanor. The criminal or
26 juvenile justice agency shall forward the fingerprints to the
27 department of public safety for inclusion in the automated
28 fingerprint identification system and may also retain a copy
29 of the fingerprint card for comparison with latent
30 fingerprints and the identification of repeat offenders.

31 Sec. 33. Section 232.149, subsection 2, Code 1997, is
32 amended to read as follows:

33 2. Records and files of a criminal or juvenile justice
34 agency concerning a child involved in a delinquent act are
35 public records, except that ~~a criminal or juvenile justice~~

1 ~~agency shall not~~ release the name of a child until a complaint
2 ~~is filed pursuant to section 232.28 and~~ criminal history data
3 ~~is,~~ intelligence data, and law enforcement investigatory files
4 are subject to the provisions of section 22.7 and chapter 692
5 and juvenile court social records, as defined in section
6 232.2, subsection 31, shall be deemed confidential criminal
7 identification files under section 22.7, subsection 9. The
8 records are subject to sealing under section 232.150 unless
9 the juvenile court waives its jurisdiction over the child so
10 that the child may be prosecuted as an adult for a public
11 offense.

12 Sec. 34. Section 232.149, Code 1997, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 3. Notwithstanding subsection 2, if a
15 juvenile who has been placed in detention under section
16 232.22, escapes from the facility, the criminal or juvenile
17 justice agency may release the name of the juvenile, the facts
18 surrounding the escape, and the offense or alleged offense
19 which resulted in the placement of the juvenile in the
20 facility.

21 Sec. 35. Section 232.150, subsection 1, unnumbered
22 paragraph 1, Code 1997, is amended to read as follows:

23 Upon application of a person who was taken into custody for
24 a delinquent act or, who was the subject of a complaint
25 alleging delinquency or, who was the subject of a delinquency
26 petition, or who committed a violation of section 123.47, or
27 upon the court's own motion, the court, after hearing, shall
28 order the records in the case including those specified in
29 sections 232.147 and 232.149 sealed if the court finds all of
30 the following:

31 Sec. 36. NEW SECTION. 279.9B REPORTS TO JUVENILE
32 AUTHORITIES.

33 The rules adopted under section 279.8 shall require, once
34 school officials have been notified by a juvenile court
35 officer that a student attending the school is under

1 supervision or has been placed on probation, that school
2 officials shall notify the juvenile court of each unexcused
3 absence or suspension or expulsion of the student.

4 Sec. 37. NEW SECTION. 280.24 PROCEDURES FOR REPORTING
5 DRUG OR ALCOHOL POSSESSION OR USE.

6 The board of directors of each public school and the
7 authorities in charge of each accredited nonpublic school
8 shall prescribe procedures which require school officials to
9 report any use or possession of alcoholic liquor, wine, or
10 beer or any controlled substance on school premises to local
11 law enforcement agencies, if the use or possession is in
12 violation of school policy or state law.

13 Sec. 38. NEW SECTION. 280.25 INFORMATION SHARING.

14 The board of directors of each public school and the
15 authorities in charge of each accredited nonpublic school
16 shall adopt rules which provide that the school district or
17 school may share information contained within a student's
18 permanent record pursuant to an interagency agreement with the
19 department of human services, school and law enforcement
20 authorities, and other signatory agencies. The purpose of the
21 agreement shall be to reduce juvenile crime by promoting
22 cooperation and collaboration and the sharing of appropriate
23 information between the parties in a joint effort to improve
24 school safety, reduce alcohol and illegal drug use, reduce
25 truancy, reduce in-school and out-of-school suspensions, and
26 to support alternatives to in-school and out-of-school
27 suspensions and expulsions which provide structured and well-
28 supervised educational programs supplemented by coordinated
29 and appropriate services designed to correct behaviors that
30 lead to truancy, suspension, and expulsions and to support
31 students in successfully completing their education.
32 Information shared under the agreement shall be used solely
33 for determining the programs and services appropriate to the
34 needs of the juvenile or the juvenile's family, or
35 coordinating the delivery of programs and services to the

1 juvenile or the juvenile's family. Information shared under
2 the agreement is not admissible in any court proceedings which
3 take place prior to a disposition hearing, unless written
4 consent is obtained from a student's parent, guardian, or
5 legal or actual custodian. Confidential information shared
6 between the parties to the agreement shall remain confidential
7 and shall not be shared with any other person, unless
8 otherwise provided by law.

9 A school or school district entering into an interagency
10 agreement under this section shall adopt a policy implementing
11 the provisions of the interagency agreement. The policy shall
12 include, but not be limited to, the provisions of the
13 interagency agreement and the procedures to be used by the
14 school or school district to share information from the
15 student's permanent record with participating agencies. The
16 policy shall be published in the student handbook.

17 Sec. 39. Section 321.216B, Code 1997, is amended to read
18 as follows:

19 321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S
20 IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

21 A person who is under the age of twenty-one, who alters or
22 displays or has in the person's possession a fictitious or
23 fraudulently altered motor vehicle license or nonoperator's
24 identification card and who uses the license to violate or
25 attempt to violate section 123.47 ~~or 123.47A~~, commits a simple
26 misdemeanor punishable by a fine of one hundred dollars. The
27 court shall forward a copy of the conviction or order of
28 adjudication under section 232.47 to the department.

29 Sec. 40. Section 331.653, subsection 4, Code 1997, is
30 amended to read as follows:

31 4. Provide bailiff and other law enforcement service to
32 the district judges, district associate judges, and associate
33 juvenile judges, and judicial magistrates of the county upon
34 request.

35 Sec. 41. Section 331.653, subsection 58, Code 1997, is

1 amended to read as follows:

2 58. Report information on crimes committed and delinquent
3 acts committed, which would be an a serious or aggravated
4 misdemeanor or felony if committed by an adult, and furnish
5 disposition reports on persons arrested and juveniles taken
6 into custody, for a delinquent act which would be an a serious
7 or aggravated misdemeanor or felony if committed by an adult,
8 and criminal complaints or information or juvenile delinquency
9 petitions, alleging a delinquent act which would be an a
10 serious or aggravated misdemeanor or felony if committed by an
11 adult, filed in any court as provided in section 692.15.

12 Sec. 42. Section 602.1211, subsection 4, Code 1997, is
13 amended to read as follows:

14 4. A chief judge may designate other public officers to
15 accept bond money or security under section 232.23 or 811.2 at
16 times when the office of the clerk of court is not open.

17 Sec. 43. Section 602.6110, Code 1997, is amended to read
18 as follows:

19 602.6110 PEER REVIEW COURT ---PILOT-PROJECTS.

20 1. A peer review court is may be established as-a-pilot
21 program in each judicial district to divert certain youthful
22 offenders from the criminal or juvenile justice systems. The
23 court shall consist of a qualified adult to act as judge with
24 while the duties of prosecutor, defense counsel, court
25 attendant, clerk, and jury composed-of shall be performed by
26 persons ten twelve through seventeen years of age.

27 2. The jurisdiction of the peer review court extends to
28 those persons ten through seventeen years of age who have
29 committed misdemeanor offenses, or delinquent acts which would
30 be misdemeanor offenses if committed by an adult, and-who-have
31 entered-a-plea-of-guilty who have admitted involvement in the
32 misdemeanor or delinquent act, entered and who meet the
33 criteria established for entering into an informal adjustment
34 agreement, -or-agreed-to-the-entry-of-a-consent-decree-to for
35 those offenses in-district-or-juvenile-court. Those persons

1 may then elect to appear before the peer review court to
2 receive-sentence for a determination of the terms and
3 conditions of the informal adjustment or may elect to proceed
4 with the informal or formal procedures established in chapter
5 232.

6 3. The peer review court shall not determine guilt or
7 innocence and any statements or admissions made by the person
8 before the peer review court are not admissible in any formal
9 proceedings involving the same person. The peer review court
10 shall only determine the sentence-for terms and conditions of
11 the informal adjustment for the offense. The sentence terms
12 and conditions may consist of fines, restrictions for damages,
13 attendance at treatment programs, or community service work or
14 any combination of these penalties as appropriate to the
15 offense or delinquent act committed. A person appearing
16 before the peer review court may also be required to serve as
17 a juror on the court as a part of the person's sentence.

18 ~~3. 4. Subject-to-the-agreement-of-the-chief-judge-of-the~~
19 ~~judicial-district, the supreme court shall designate two~~
20 ~~judicial-districts-in-which-to-locate-a-peer-review-court~~
21 ~~pilot-project.~~ The chief judge of the each judicial district
22 which establishes a peer review court shall appoint a peer
23 review court advisory board. The advisory board shall adopt
24 rules for the peer review court advisory program, shall
25 appoint persons to serve on the peer review court, and shall
26 supervise the expenditure of funds appropriated to the
27 program.

28 Sec. 44. Section 602.8102, subsection 125, Code 1997, is
29 amended to read as follows:

30 125. Furnish a disposition of each criminal complaint or
31 information or juvenile delinquency petition, alleging a
32 delinquent act which would be an a serious or aggravated
33 misdemeanor or felony if committed by an adult, filed in the
34 district or juvenile court to the department of public safety
35 as provided in section 692.15.

1 Sec. 45. Section 692.1, subsections 1 and 9, Code 1997,
2 are amended to read as follows:

3 1. "Adjudication data" means information that an
4 adjudication of delinquency for an act which would be an a
5 serious or aggravated misdemeanor or felony if committed by an
6 adult was entered against a juvenile and includes the date and
7 location of the delinquent act and the place and court of
8 adjudication.

9 9. "Custody data" means information pertaining to the
10 taking into custody, pursuant to section 232.19, of a juvenile
11 for a delinquent act which would be an a serious or aggravated
12 misdemeanor or felony if committed by an adult, and includes
13 the date, time, place, and facts and circumstances of the
14 delinquent act. Custody data includes warrants for the taking
15 into custody for all delinquent acts outstanding and not
16 served and includes the filing of a petition pursuant to
17 section 232.35, the date and place of the alleged delinquent
18 act, and the county of jurisdiction.

19 Sec. 46. Section 724.26, Code 1997, is amended to read as
20 follows:

21 724.26 RECEIPT, TRANSPORTATION, AND DOMINION AND CONTROL
22 OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

23 A person who is convicted of a felony in a state or federal
24 court, or who is adjudicated delinquent on the basis of
25 conduct that would constitute a felony if committed by an
26 adult, and who knowingly has under the person's dominion and
27 control, receives, or transports or causes to be transported a
28 firearm or offensive weapon is guilty of a class "D" felony.

29 Sec. 47. Section 805.8, subsection 10, paragraphs a and b,
30 Code 1997, are amended by striking the paragraphs.

31 Sec. 48. Section 805.16, subsection 1, Code 1997, is
32 amended to read as follows:

33 1. Except as provided in subsection 2 of this section, a
34 peace officer shall issue a police citation or uniform
35 citation and complaint, in lieu of making a warrantless

1 arrest, to a person under eighteen years of age accused of
2 committing a simple misdemeanor under chapter 321, 321G, 461A,
3 461B, 462A, 481A, 481B, 483A, 484A, 484B, section 123.47 or
4 123.47D, or a local ordinance not subject to the jurisdiction
5 of the juvenile court, and shall not detain or confine the
6 person in a facility regulated under chapter 356 or 356A.

7 Sec. 49. Section 815.7, Code 1997, is amended to read as
8 follows:

9 815.7 FEES TO ATTORNEYS.

10 An attorney who has not entered into a contract authorized
11 under section 13B.4 and who is appointed by the court to
12 represent any person charged with a crime in this state or to
13 serve as counsel or guardian ad litem to a person in juvenile
14 court in this state shall be entitled to a reasonable
15 compensation which shall be the ordinary and customary charges
16 for like services in the community to be decided in each case
17 by a judge of the district court or of the juvenile court, as
18 applicable, including such sum or sums as the court may
19 determine are necessary for investigation in the interests of
20 justice and in the event of appeal the cost of obtaining the
21 transcript of the trial and the printing of the trial record
22 and necessary briefs in behalf of the defendant. However, the
23 reasonable compensation awarded an attorney shall not be
24 calculated based upon an hourly rate that exceeds the rate a
25 contract attorney as provided in section 13B.4 would receive
26 in a similar case. Such attorney need not follow the case
27 into another county or into the appellate court unless so
28 directed by the court at the request of the defendant, where
29 grounds for further litigation are not capricious or
30 unreasonable, but if such attorney does so, the attorney's fee
31 shall be determined accordingly. Only one attorney fee shall
32 be so awarded in any one case except that in class "A" felony
33 cases, two may be authorized.

34 Sec. 50. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED
35 SENTENCE -- YOUTHFUL OFFENDER STATUS.

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

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

25 3. Notwithstanding any provision of the Code which
26 prescribes a mandatory minimum sentence for the offense
27 committed by the youthful offender, following transfer of the
28 youthful offender from the juvenile court back to the court
29 having jurisdiction over the criminal proceedings involving
30 the youthful offender, the court may continue the youthful
31 offender deferred sentence or enter a sentence, which may be a
32 suspended sentence. However, a youthful offender shall not be
33 placed on probation for longer than five years. During the
34 period of probation, a youthful offender who violates the
35 terms of probation is subject to section 908.11.

1 Sec. 51. Section 908.11, Code 1997, is amended to read as
2 follows:

3 908.11 VIOLATION OF PROBATION.

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

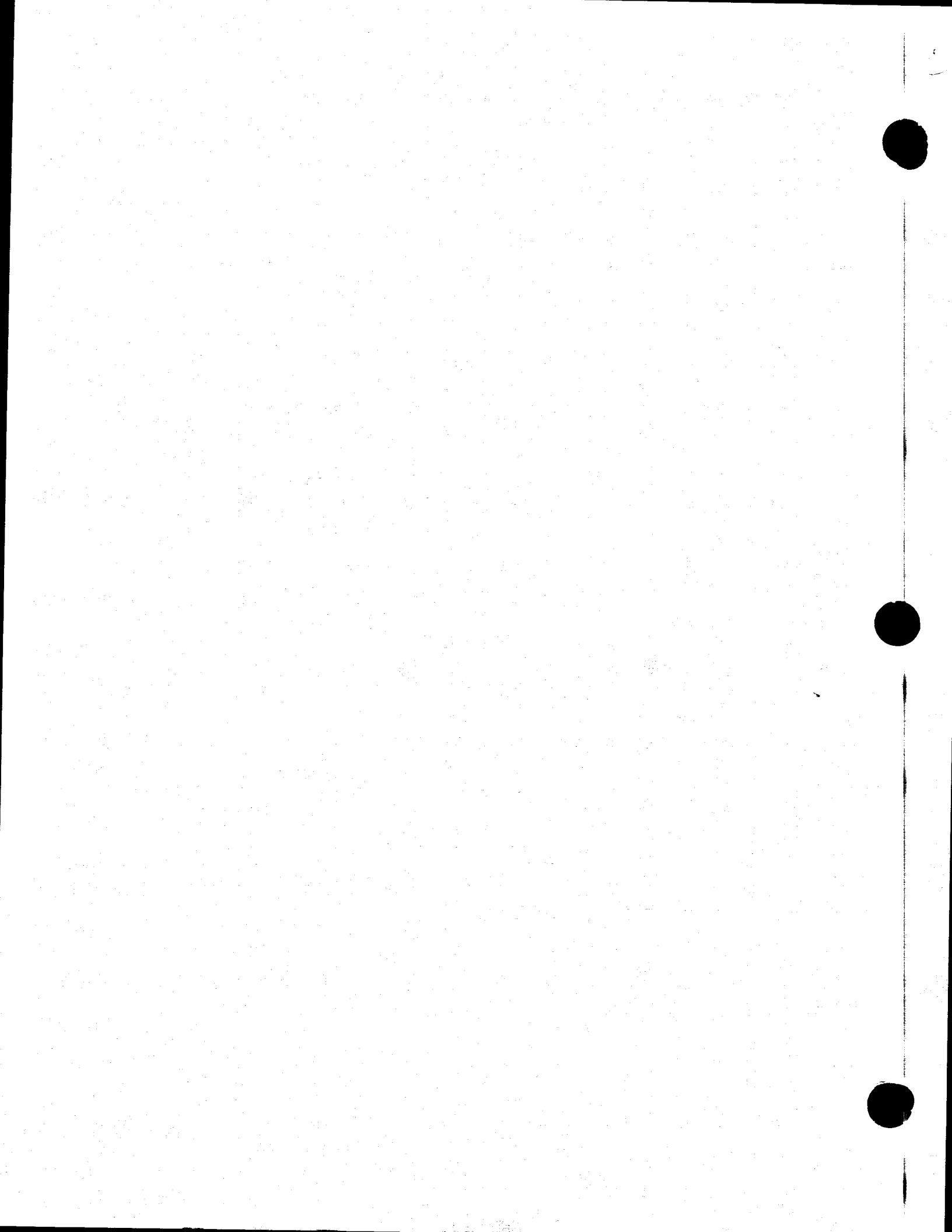
35 Sec. 52. Section 910A.5, subsection 3, Code 1997, is

1 amended to read as follows:

2 3. If a complaint is filed under section 232.28, alleging
3 a child has committed a delinquent act, the alleged victim may
4 file a signed victim impact statement with the juvenile court
5 as provided by section 232.28. The victim impact statement
6 shall be considered by the court and the juvenile court
7 officer handling the complaint in any proceeding or informal
8 adjustment associated with the complaint. In addition, the
9 victim shall be allowed to orally present the victim impact
10 statement in any informal adjustment, disposition, or other
11 proceeding which disposes of the complaint.

12 Sec. 53. Section 123.47A, Code 1997, is repealed.

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SENATE FILE 515

H-1570

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, line 15, by inserting after the words
4 "punishable by a" the following: "minimum".

5 2. Page 2, line 20, by striking the words "the
6 person who is under legal age" and inserting the
7 following: "any person".

A 8 3. Page 2, line 25, by striking the word "death
9 of the" and inserting the following: "death of any".

10 4. Page 2, line 26, by striking the words "who is
11 under legal age".

B 12 5. Page 3, line 9, by inserting after the words
13 "who is" the following: "enrolled in secondary school
14 and who is".

A 15 6. By striking page 3, line 33, through page 4,
16 line 20.

B 17 7. By striking page 23, line 31, through page 24,
18 line 6.

A 19 8. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
LAMBERTI of Polk, Chairperson

H-1570 FILED APRIL 7, 1997

(P.1236) A - adapted
(P.1236) B - withdrawn 4/15/97

SENATE FILE 515

H-1669

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by striking lines 19 and 20, and
4 inserting the following: "violation of this section
5 and who has one previous conviction for a violation of
6 this section commits an aggravated".

7 2. Page 2, by striking lines 25 and 26, and
8 inserting the following: "violation of this section
9 and who has two or more previous convictions for a
10 violation of this section commits a class "D" felony."

By BODDICKER of Cedar

H-1669 FILED APRIL 9, 1997

WITHDRAWN
4-15-97
(P.1240)

SENATE FILE 515

H-1708

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 19, by striking lines 8 and 9 and
- 4 inserting the following: "shall provide for the
- 5 reporting of the possession of alcoholic liquor, wine,
- 6 or".
- 7 2. Page 19, line 11, by striking the words "use
- 8 or".

By KREIMAN of Davis

H-1708 FILED APRIL 14, 1997

WITHDRAWN

4.15.97

(p. 1248)

SENATE FILE 515

H-1711

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 12, line 35, by inserting after the word
4 "offense" the following: "for purpose of prosecution
5 of the child as an adult or a youthful offender".

6 2. Page 13, by striking lines 3 and 4 and
7 inserting the following: "heard by the district court
8 as part of the proceedings under section 907.3A, or by
9 the juvenile court as provided in this section. If
10 the motion for waiver for purpose of being prosecuted
11 as a youthful offender is made as a result of a
12 conditional agreement between the county attorney and
13 the child, the conditions of the agreement shall be
14 disclosed to the court in the same manner as provided
15 in rules 8 and 9 of the Iowa rules of criminal
16 procedure."

17 3. Page 13, line 29, by inserting after the
18 figure "232.23." the following: "If the court has
19 been apprised of conditions of an agreement between
20 the county attorney and the child which resulted in a
21 motion for waiver for purposes of the child being
22 prosecuted as a youthful offender, and the court finds
23 that the conditions are in the best interests of the
24 child, the conditions of the agreement shall
25 constitute conditions of the waiver order."

26 4. Page 15, line 31, by inserting after the word
27 "order." the following: "The dispositional order
28 regarding a child who has received a youthful offender
29 deferred sentence may also be terminated prior to the
30 child reaching the age of eighteen upon motion of the
31 county attorney, if the waiver of the child to
32 district court was conditioned upon the terms of an
33 agreement between the county attorney and the child
34 violates the terms of the agreement after the waiver
35 order has been entered."

36 5. Page 17, line 6, by striking the words "status
37 or" and inserting the following: "status,".

38 6. Page 17, line 8, by inserting after the word
39 "birthday" the following: ", or whether the child
40 shall continue under the supervision of the juvenile
41 court until the child either completes treatment or
42 reaches the age of nineteen, whichever first occurs".

43 7. Page 25, line 1, by inserting after the figure
44 "907.3" the following: "but subject to any conditions
45 of the waiver order".

46 8. Page 25, line 10, by inserting after the word
47 "section." the following: "Notwithstanding section
48 901.2, a presentence investigation shall not be
49 ordered by the court subsequent to an entry of a plea
50 of guilty or verdict of guilty or prior to deferral of

H-1711

-1-

H-1711

Page 2

A 1 sentence of a youthful offender under this section."

2 9. Page 25, by striking line 15 and inserting the
3 following: "supervision of the juvenile court or the
4 district court, or whether the youthful offender shall
5 be discharged. The court shall".

B 6 10. Page 25, line 22, by inserting after the word
7 "report," the following: "whether the youthful
8 offender has completed any treatment ordered by the
9 juvenile court under a dispositional order entered
10 pursuant to section 232.52 or 232.54,".

C 11 11. Page 25, line 32, by inserting after the
12 words "shall not" the following: "remain under the
13 supervision of the juvenile court beyond the date on
14 which the youthful offender reaches the age of
B 15 nineteen and the court shall not cause the youthful
16 offender to".

By KREIMAN of Davis

H-1711 FILED APRIL 14, 1997

p. 1246 A - adopted

C - Withdrawn (P. 1242)

B. Lost (P. 1247)

SENATE FILE 515

H-1714

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 7, line 25, by striking the words "public
4 offense" and inserting the following: "serious
5 misdemeanor".

6 2. Page 8, by striking lines 14 and 15, and
7 inserting the following: "would be an a serious or
8 aggravated misdemeanor or a felony shall-be is a
9 public record and shall not be".

By KREIMAN of Davis

H-1714 FILED APRIL 14, 1997

*w/o 4-15-97
(P. 1242)*

SENATE FILE 515

H-1728

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 13, by striking line 13 and inserting the
- 4 following:
- 5 "a. The child is at least 12 years of age but is
- 6 no older than 17 years of age."

By DODERER of Johnson

H-1728 FILED APRIL 15, 1997

WITHDRAWN

(P. 1249)

SENATE FILE 515

H-1729

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 5, line 31, by inserting after the word
- 4 "person." the following: "However, a person who
- 5 dispenses or gives beer, wine, or intoxicating liquor
- 6 to an underage person shall only be liable for any
- 7 damages if the person knew or should have known that
- 8 the underage person was under legal age."

By HEATON of Henry

H-1729 FILED APRIL 15, 1997

ADOPTED

(P. 1240)

SENATE FILE 515

H-1730

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 7, line 25, by striking the words "public
- 4 offense" and inserting the following: "simple
- 5 misdemeanor involving violence against a person, a
- 6 serious or aggravated misdemeanor, or a felony".
- 7 2. Page 8, by striking lines 14 and 15, and
- 8 inserting the following: "would be an a simple
- 9 misdemeanor involving violence against a person, a
- 10 serious or aggravated misdemeanor, or a felony shall
- 11 be is a public record and shall not be".

By KREIMAN of Davis
FORD of Polk

H-1730 FILED APRIL 15, 1997

LOST

(P. 1243)

SENATE FILE 515

H-1722

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by striking lines 4 through 9, and
4 inserting the following: "section. However, if the
5 person who commits the violation of this section is
6 under the age of eighteen, the matter shall be
7 disposed of in the manner provided in chapter 232."

8 2. Page 3, by striking lines 8 and 9, and
9 inserting the following: "a reasonable effort to
10 identify a person who is age eighteen or older,
11 enrolled in secondary school, and discovered to be
12 in".

Jordan
P. 1249

13 3. Page 5, by inserting after line 6 the
14 following: "If the violation is committed by a person
15 who is employed by a licensee or permittee, the
16 licensee or permittee and the individual shall each be
17 deemed to have committed the violation and shall each
18 be punished as provided in this subsection."

19 4. Page 5, line 31, by inserting after the word
20 "person." the following: "However, a person who is
21 not a licensee or permittee and who dispenses or gives
22 beer, wine, or intoxicating liquor to an underage
23 person shall not be liable for any damages actually
24 sustained if the person was not present when the beer,
25 wine, or intoxicating liquor was consumed by the
26 underage person."

27 5. Page 6, by inserting after line 12, the
28 following:
29 "Sec. ____ . Section 232.2, subsection 12, Code
30 1997, is amended by adding the following new
31 paragraph:

32 NEW PARAGRAPH. c. The violation of section
33 123.47."

34 6. Page 7, by inserting after line 26, the
35 following:
36 "Sec. ____ . Section 232.22, Code 1997, is amended
37 by adding the following new subsection:

38 NEW SUBSECTION. 7. Notwithstanding any other
39 provision of the Code to the contrary, a child shall
40 not be placed in detention for a violation of section
41 123.47, or for failure to comply with a dispositional
42 order which provides for payment of a fine or
43 performance of community service for a violation of
44 section 123.47."

45 7. Page 14, by inserting after line 24, the
46 following:
47 "Sec. ____ . Section 232.46, subsection 1, Code
48 1997, is amended to read as follows:

49 1. At any time after the filing of a petition and
50 prior to entry of an order of adjudication pursuant to

H-1722

H-1722

Page 2

1 section 232.47, the court may suspend the proceedings
2 on motion of the county attorney or the child's
3 counsel, enter a consent decree, and continue the case
4 under terms and conditions established by the court.
5 These terms and conditions may include prohibiting a
6 child from driving a motor vehicle for a specified
7 period of time or under specific circumstances, or the
8 supervision of the child by a juvenile court officer
9 or other agency or person designated by the court, and
10 may include the requirement that the child perform a
11 work assignment of value to the state or to the public
12 or make restitution consisting of a monetary payment
13 to the victim or a work assignment directly of value
14 to the victim, or, if the delinquent act is a
15 violation of section 123.47, pay a fine. The court
16 shall notify the state department of transportation of
17 an order prohibiting the child from driving."

18 8. Page 15, by striking lines 14 through 19, and
19 inserting the following:

20 "Sec. _____. Section 232.52, subsection 2, paragraph
21 g, Code 1997, is amended to read as follows:

22 g. An order placing a child, other than a child
23 who has committed a violation of section 123.47, in
24 secure custody for not more than two days in a
25 facility under section 232.22, subsection 2, paragraph
26 "a" or "b".

27 Sec. _____. Section 232.52, subsection 2, Code 1997,
28 is amended by adding the following new paragraph:

29 NEW PARAGRAPH. i. An order requiring a child who
30 has committed a violation of section 123.47 to pay a
31 fine."

32 9. Page 15, line 31, by inserting after the word
33 "order." the following: "The hearing may be waived if
34 all parties to the proceeding agree."

35 10. Page 17, by inserting after line 30, the
36 following:

37 "Sec. _____. Section 232.148, subsection 5,
38 paragraph b, Code 1997, is amended to read as follows:

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

46 11. Page 18, line 4, by striking the word "are"
47 and inserting the following: "is".

48 12. Page 18, by striking lines 21 through 30 and
49 inserting the following:

50 "Sec. _____. Section 232.150, subsection 1, Code

H-1722

-2-

H-1722

Page 3

1 1997, is amended by adding the following new

2 paragraph:

3 NEW PARAGRAPH. c. The person was not placed on
4 youthful offender status, transferred back to district
5 court after the youthful offender's eighteenth
6 birthday, and sentenced for the offense which
7 precipitated the youthful offender placement."

8 13. Page 19, line 16, by inserting before the
9 word "rules" the following: "a policy and the
10 superintendent of each public school shall adopt".

11 14. Page 19, line 18, by striking the words
12 "agreement with the" and inserting the following:
13 "agreement with state and local agencies that are part
14 of the juvenile justice system including the juvenile
15 court, the".

16 15. Page 19, line 19, by striking the words
17 "school and" and inserting the following: "and
18 local".

19 16. Page 19, line 20, by striking the words
20 "authorities, and other signatory agencies." and
21 inserting the following: "authorities. The
22 disclosure of information shall be directly related to
23 the juvenile justice system's ability to effectively
24 serve, prior to adjudication, the student whose
25 records are being released."

26 17. Page 20, line 5, by striking the word
27 "Confidential" and inserting the following: "The
28 interagency agreement shall provide, and each
29 signatory agency to the agreement shall certify in the
30 agreement, that confidential".

31 18. Page 24, lines 3 and 4, by striking the words
32 and figures "section 123.47 or 123.47D," and inserting
33 the following: "~~section-123.47~~".

34 19. Page 25, by striking lines 32 and 33, and
35 inserting the following: "suspended sentence.
36 Notwithstanding anything in section 907.7 to the
37 contrary, if the district court either continues the
38 youthful offender deferred sentence or enters a
39 sentence, suspends the sentence, and places the
40 youthful offender on probation, the term of formal
41 supervision shall commence upon entry of the order by
42 the district court and may continue for a period not
43 to exceed five years. If the district court enters a
44 sentence of confinement, and the youthful offender was
45 previously placed in secure confinement by the
46 juvenile court under the terms of the initial
47 disposition order or any modification to the initial
48 disposition order, the person shall receive credit for
49 any time spent in secure confinement. During any".

50 20. Page 25, line 34, by inserting after the word

H-1722

H-1722

Page 4

1 "probation" the following: "imposed by the district
2 court".

3 21. Page 27, by striking lines 8 through 11, and
4 inserting the following: "adjustment associated with
5 the complaint. Unless the matter is disposed of at
6 the preliminary inquiry conducted by the intake

7 officer under section 232.28, the victim may also be
8 allowed to orally present the victim impact
9 statement."

10 22. By renumbering as necessary.

By LARSON of Linn

H-1722 FILED APRIL 15, 1997

ADOPTED AS AMENDED

(P.1240) *lines 8-12 out of order 4-15-97*
(P.1240)

SENATE FILE 515

H-1723

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 13, by striking line 13 and inserting the
4 following:

5 "a. The child is at least 12 years of age but is
6 no older than 15 years of age."

By KREIMAN of Davis

H-1723 FILED APRIL 15, 1997

WITHDRAWN

(P.1249)

SENATE FILE 515

H-1724

1 Amend the amendment, H-1711, to Senate File 515, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 4, by inserting before the words
5 "for purpose" the following: "or".

By KREIMAN of Davis

H-1724 FILED APRIL 15, 1997

ADOPTED

(P.1245)

SENATE FILE 515

H-1727

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 19, line 8, by striking the words "which
4 require school officials".

5 2. Page 19, line 12, by inserting after the word
6 "law." the following: "The procedures may include a
7 provision which does not require a report when the
8 offense is minor and school officials have determined
9 that a school at-risk or other student assistance
10 program would be jeopardized by making the report."

By KREIMAN of Davis

H-1727 FILED APRIL 15, 1997

ADOPTED

(P.1248)

SENATE FILE 515

H-1734

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 7, line 2, by inserting before the word
4 "is" the following: "or".
5 2. Page 7, by striking lines 3 through 11 and
6 inserting the following: "alleged delinquent act of
7 violence against a person. However, if the child is
8 ~~thirteen~~ twelve years of age or older, the child may
9 be restrained by metal handcuffs only, for the purpose
10 of transportation in a vehicle which is not equipped
11 with a rear seat cage for prisoner transport and if
12 the child is being taken into custody for an alleged
13 delinquent act of violence against a person. The
14 child may also be restrained by".

By FORD of Polk

H-1734 FILED APRIL 15, 1997

*Adopt 4-15-97**(P.1241)*

SENATE FILE 515

H-1735

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by striking lines 7 through 17 and
4 inserting the following: "will endanger that person."

By BERNAU of Story

H-1735 FILED APRIL 15, 1997

*Adopted 4-15-97**(P.1249)*

SENATE FILE 515

H-1736

1 Amend the amendment, H-1722, to Senate File 515, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, line 42, by striking the words
5 "payment of a fine or".
6 2. By striking page 1, line 45, through page 2,
7 line 17.
8 3. Page 2, by striking lines 27 through 31.

By LARSON of Linn
KREIMAN of Davis

H-1736 FILED APRIL 15, 1997

ADOPTED

(P.1240)

SENATE FILE 515

H-1732

1 Amend Senate File 515, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 22, line 27, by inserting after the word
 4 "program." the following: "Rules adopted shall
 5 include procedures which are designed to eliminate the
 6 influence of prejudice and racial and economic
 7 discrimination in the procedures and decisions of the
 8 peer review court."

By FORD of Polk

H-1732 FILED APRIL 15, 1997

ADOPTED

(P. 1248)

SENATE FILE 515

H-1733

1 Amend Senate File 515, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 7, line 23, by inserting after the word
 4 "child" the following: "who is at least ten years of
 5 age and who is".
 6 2. Page 8, line 12, by inserting after the word
 7 "child" the following: "who is at least ten years of
 8 age and who".
 9 3. Page 17, by striking line 22 and inserting the
 10 following: "taken into custody and who is fourteen
 11 ten years of age or older".
 12 4. Page 21, line 3, by inserting after the word
 13 "committed" the following: "by children who are at
 14 least ten years of age".
 15 5. Page 21, line 6, by inserting after the words
 16 "delinquent act" the following: "which was committed
 17 by a child at least ten years of age and".
 18 6. Page 21, line 9, by inserting after the words
 19 "delinquent act" the following: "which was committed
 20 by a child at least ten years of age and".
 21 7. Page 22, line 32, by inserting after the words
 22 "delinquent act" the following: "which was committed
 23 by a child at least ten years of age and".
 24 8. Page 23, line 4, by inserting after the words
 25 "for an act" the following: "which was committed by a
 26 child at least ten years of age and".

By KREIMAN of Davis

H-1733 FILED APRIL 15, 1997

A-ADOPTED

B- *Withdrawn (p. 1249)*

SENATE FILE 515

H-1739

- 1 Amend the amendment, H-1727, to Senate File 515, as
- 2 amended, passed, and reprinted by the Senate, as
- 3 follows:
- 4 1. Page 1, line 8, by striking the words "offense
- 5 is minor and".
- 6 2. Page 1, line 10, by striking the words "by
- 7 making the report" and inserting the following: "if a
- 8 student self reports".

By THOMSON of Linn

H-1739 FILED APRIL 15, 1997
ADOPTED*(P. 1247)*

SENATE FILE 515

H-1741

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 13, by striking line 13 and inserting the
- 4 following:
- 5 "a. The child is at least fourteen years of age
- 6 but is no older than seventeen years of age."

By DODERER of Johnson

H-1741 FILED APRIL 15, 1997
LOST*(P. 1246)*

SENATE FILE 515

H-1742

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 13, by striking line 13 and inserting the
- 4 following:
- 5 "a. The child is at least fourteen years of age
- 6 but is no older than fifteen years of age."

By KREIMAN of Davis

H-1742 FILED APRIL 15, 1997
WITHDRAWN*(P. 1246)*

SENATE FILE 515

H-1743

- 1 Amend Senate File 515, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 7, by striking lines 21 through 26.
- 4 2. By renumbering as necessary.

By HOLVECK of Polk

H-1743 FILED APRIL 15, 1997

*Lost (P. 1249)**4-15-97*

SENATE FILE 515

H-1737

1 Amend the amendment, H-1722, to Senate File 515, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by striking lines 20 through 26 and
5 inserting the following: "'person." the following:
6 "For purposes of this paragraph, "dispensed" or "gave"
7 means the act of physically presenting a receptacle
8 containing beer, wine, or intoxicating liquor to the
9 under-age person whose actions or intoxication results
10 in the sustaining of damages by another person."

By LARSON of Linn

H-1737 FILED APRIL 15, 1997

ADOPTED 4-15-97)

(P.1239)

SENATE FILE 515

H-1738

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 27, by inserting after line 12, the
4 following:

5 "Sec. ____ . JUVENILE JUSTICE INTERIM STUDY. The
6 legislative council is requested to establish an
7 interim study committee consisting of members of both
8 political parties from both houses of the general
9 assembly to review and consider the need for
10 improvements in the laws and programs established to
11 reform juvenile delinquents and reduce juvenile crime.
12 The study may include but is not limited to the review
13 of the need for improvements in the current juvenile
14 justice system, the youthful offender program, the
15 programs established to combat substance abuse by
16 juveniles, and the coordination of programs and
17 information between the juvenile and adult criminal
18 justice systems. The committee shall submit its
19 findings, together with any recommendations, in a
20 report to the general assembly which convenes in
21 January 1998."

22 2. Title page 2, line 12, by inserting after the
23 word "authorities" the following: ", and providing
24 for a legislative study".

25 3. By renumbering as necessary.

By FORD of Polk

H-1738 FILED APRIL 15, 1997

ADOPTED

(P.1249)

HOUSE AMENDMENT TO
SENATE FILE 515

S-3529

1 Amend Senate File 515, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by striking lines 4 through 9, and
4 inserting the following: "section. However, if the
5 person who commits the violation of this section is
6 under the age of eighteen, the latter shall be
7 disposed of in the manner provided in chapter 232."

8 2. Page 2, line 15, by inserting after the words
9 "punishable by a" the following: "minimum".

10 3. Page 2, line 20, by striking the words "the
11 person who is under legal age" and inserting the
12 following: "any person".

13 4. Page 2, line 25, by striking the word "death
14 of the" and inserting the following: "death of any".

15 5. Page 2, line 26, by striking the words "who is
16 under legal age".

17 6. Page 3, by striking lines 7 through 17 and
18 inserting the following: "will endanger that person."

19 7. By striking page 3, line 33, through page 4,
20 line 20.

21 8. Page 5, by inserting after line 6 the
22 following: "If the violation is committed by a person
23 who is employed by a licensee or permittee, the
24 licensee or permittee and the individual shall each be
25 deemed to have committed the violation and shall each
26 be punished as provided in this subsection."

27 9. Page 5, line 31, by inserting after the word
28 "person." the following: "For purposes of this
29 paragraph, "dispensed" or "gave" means the act of
30 physically presenting a receptacle containing beer,
31 wine, or intoxicating liquor to the under-age person
32 whose actions or intoxication results in the
33 sustaining of damages by another person."

34 10. Page 5, line 31, by inserting after the word
35 "person." the following: "However, a person who
36 dispenses or gives beer, wine, or intoxicating liquor
37 to an underage person shall only be liable for any
38 damages if the person knew or should have known that
39 the underage person was under legal age."

40 11. Page 6, by inserting after line 12, the
41 following:

42 "Sec. ____ . Section 232.2, subsection 12, Code
43 1997, is amended by adding the following new
44 paragraph:

45 NEW PARAGRAPH. c. The violation of section
46 123.47."

47 12. Page 7, line 23, by inserting after the word
48 "child" the following: "who is at least ten years of
49 age and who is".

50 13. Page 7, by inserting after line 26, the

S-3529

S-3529

Page 2

1 following:

2 "Sec. _____. Section 232.22, Code 1997, is amended
3 by adding the following new subsection:

4 NEW SUBSECTION. 7. Notwithstanding any other
5 provision of the Code to the contrary, a child shall
6 not be placed in detention for a violation of section
7 123.47, or for failure to comply with a dispositional
8 order which provides for performance of community
9 service for a violation of section 123.47."

10 14. Page 8, line 12, by inserting after the word
11 "child" the following: "who is at least ten years of
12 age and who".

13 15. Page 12, line 35, by inserting after the word
14 "offense" the following: "or for purpose of
15 prosecution of the child as an adult or a youthful
16 offender".

17 16. Page 13, by striking lines 3 and 4 and
18 inserting the following: "heard by the district court
19 as part of the proceedings under section 907.3A, or by
20 the juvenile court as provided in this section. If
21 the motion for waiver for purpose of being prosecuted
22 as a youthful offender is made as a result of a
23 conditional agreement between the county attorney and
24 the child, the conditions of the agreement shall be
25 disclosed to the court in the same manner as provided
26 in rules 8 and 9 of the Iowa rules of criminal
27 procedure."

28 17. Page 13, line 29, by inserting after the
29 figure "232.23." the following: "If the court has
30 been apprised of conditions of an agreement between
31 the county attorney and the child which resulted in a
32 motion for waiver for purposes of the child being
33 prosecuted as a youthful offender, and the court finds
34 that the conditions are in the best interests of the
35 child, the conditions of the agreement shall
36 constitute conditions of the waiver order."

37 18. Page 15, by striking lines 14 through 19, and
38 inserting the following:

39 "Sec. _____. Section 232.52, subsection 2, paragraph
40 g, Code 1997, is amended to read as follows:

41 g. An order placing a child, other than a child
42 who has committed a violation of section 123.47, in
43 secure custody for not more than two days in a
44 facility under section 232.22, subsection 2, paragraph
45 "a" or "b"."

46 19. Page 15, line 31, by inserting after the word
47 "order." the following: "The hearing may be waived if
48 all parties to the proceeding agree."

49 20. Page 15, line 31, by inserting after the word
50 "order." the following: "The dispositional order

S-3529

-2-

S-3529

Page 3

1 regarding a child who has received a youthful offender
2 deferred sentence may also be terminated prior to the
3 child reaching the age of eighteen upon motion of the
4 county attorney, if the waiver of the child to
5 district court was conditioned upon the terms of an
6 agreement between the county attorney and the child
7 violates the terms of the agreement after the waiver
8 order has been entered."

9 21. Page 17, by inserting after line 30, the
10 following:

11 "Sec. _____. Section 232.148, subsection 5,
12 paragraph b, Code 1997, is amended to read as follows:

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

20 22. Page 18, line 4, by striking the word "are"
21 and inserting the following: "is".

22 23. Page 18, by striking lines 21 through 30 and
23 inserting the following:

24 "Sec. _____. Section 232.150, subsection 1, Code
25 1997, is amended by adding the following new
26 paragraph:

27 NEW PARAGRAPH. c. The person was not placed on
28 youthful offender status, transferred back to district
29 court after the youthful offender's eighteenth
30 birthday, and sentenced for the offense which
31 precipitated the youthful offender placement."

32 24. Page 19, line 8, by striking the words "which
33 require school officials".

34 25. Page 19, line 12, by inserting after the word
35 "law." the following: "The procedures may include a
36 provision which does not require a report when the
37 school officials have determined that a school at-risk
38 or other student assistance program would be
39 jeopardized if a student self reports."

40 26. Page 19, line 16, by inserting before the
41 word "rules" the following: "a policy and the
42 superintendent of each public school shall adopt".

43 27. Page 19, line 18, by striking the words
44 "agreement with the" and inserting the following:
45 "agreement with state and local agencies that are part
46 of the juvenile justice system including the juvenile
47 court, the".

48 28. Page 19, line 19, by striking the words
49 "school and" and inserting the following: "and
50 local".

S-3529

-3-

S-3529

Page 4

1 29. Page 19, line 20, by striking the words
2 "authorities, and other signatory agencies." and
3 inserting the following: "authorities. The
4 disclosure of information shall be directly related to
5 the juvenile justice system's ability to effectively
6 serve, prior to adjudication, the student whose
7 records are being released."

8 30. Page 20, line 5, by striking the word
9 "Confidential" and inserting the following: "The
10 interagency agreement shall provide, and each
11 signatory agency to the agreement shall certify in the
12 agreement, that confidential".

13 31. Page 22, line 27, by inserting after the word
14 "program." the following: "Rules adopted shall
15 include procedures which are designed to eliminate the
16 influence of prejudice and racial and economic
17 discrimination in the procedures and decisions of the
18 peer review court."

19 32. Page 24, lines 3 and 4, by striking the words
20 and figures "section 123.47 or 123.47D," and inserting
21 the following: "~~section-123-47~~".

22 33. Page 25, line 1, by inserting after the
23 figure "907.3" the following: "but subject to any
24 conditions of the waiver order".

25 34. Page 25, line 10, by inserting after the word
26 "section." the following: "Notwithstanding section
27 901.2, a presentence investigation shall not be
28 ordered by the court subsequent to an entry of a plea
29 of guilty or verdict of guilty or prior to deferral of
30 sentence of a youthful offender under this section."

31 35. Page 25, by striking lines 32 and 33, and
32 inserting the following: "suspended sentence.
33 Notwithstanding anything in section 907.7 to the
34 contrary, if the district court either continues the
35 youthful offender deferred sentence or enters a
36 sentence, suspends the sentence, and places the
37 youthful offender on probation, the term of formal
38 supervision shall commence upon entry of the order by
39 the district court and may continue for a period not
40 to exceed five years. If the district court enters a
41 sentence of confinement, and the youthful offender was
42 previously placed in secure confinement by the
43 juvenile court under the terms of the initial
44 disposition order or any modification to the initial
45 disposition order, the person shall receive credit for
46 any time spent in secure confinement. During any".

47 36. Page 25, line 34, by inserting after the word
48 "probation" the following: "imposed by the district
49 court".

50 37. Page 27, by striking lines 8 through 11, and

S-3529

S-3529

Page 5

1 inserting the following: "adjustment associated with
2 the complaint. Unless the matter is disposed of at
3 the preliminary inquiry conducted by the intake
4 officer under section 232.28, the victim may also be
5 allowed to orally present the victim impact
6 statement."

7 38. Page 27, by inserting after line 12, the
8 following:

9 "Sec. ____ . JUVENILE JUSTICE INTERIM STUDY. The
10 legislative council is requested to establish an
11 interim study committee consisting of members of both
12 political parties from both houses of the general
13 assembly to review and consider the need for
14 improvements in the laws and programs established to
15 reform juvenile delinquents and reduce juvenile crime.
16 The study may include but is not limited to the review
17 of the need for improvements in the current juvenile
18 justice system, the youthful offender program, the
19 programs established to combat substance abuse by
20 juveniles, and the coordination of programs and
21 information between the juvenile and adult criminal
22 justice systems. The committee shall submit its
23 findings, together with any recommendations, in a
24 report to the general assembly which convenes in
25 January 1998."

26 39. Title page 2, line 12, by inserting after the
27 word "authorities" the following: ", and providing
28 for a legislative study".

29 40. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3529 FILED APRIL 16, 1997

*Senate concurred in as amended
4/23/97 (p. 1387)*

SENATE FILE 515

S-3662

1 Amend the House amendment, S-3529, to Senate File
2 515, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, line 46, by inserting after the figure
5 "123.47" the following: "which is committed by a
6 child".

By O. GENE MADDOX

S-3662 FILED APRIL 21, 1997

Adopted 4/23/97 (p. 1386)

SENATE FILE 515

S-3701

1 Amend the House amendment, S-3529, to Senate File
 2 515, as amended, passed, and reprinted by the Senate,
 3 as follows:
 4 1. Page 2, by inserting after line 27 the
 5 following:
 6 " . Page 13, by striking line 13 and inserting
 7 the following:
 8 "a. The child is at least 12 years of age but is
 9 no older than 15 years of age."

By MARY NEUHAUSER

S-3701 FILED APRIL 23, 1997
LOST (p. 1357)

SENATE FILE 515

S-3732

1 Amend the House amendment, S-3529, to Senate File
 2 515, as amended, passed, and reprinted by the Senate,
 3 as follows:
 4 1. Page 1, by striking lines 10 through 16.
 By O. GENE MADDOX

S-3732 FILED APRIL 23, 1997
LOST (p. 1386)

SENATE AMENDMENT TO HOUSE AMENDMENT TO FILE 515

H-1903

1 Amend the House amendment, S-3529, to Senate File
 2 515, as amended, passed, and reprinted by the Senate,
 3 as follows:
 4 1. Page 1, line 46, by inserting after the figure
 5 "123.47" the following: "which is committed by a
 6 child".

RECEIVED FROM THE SENATE

H-1903 FILED APRIL 23, 1997
House Concurred 4-24-97 (p. 1525)

Maddox, Chair
Boettger
Hammond
Hansen
Tinsman

SSB 154

Judiciary
Succeeds by
(SF) HF 515

SENATE/HOUSE FILE _____
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 juvenile justice and youthful offenders, by
2 making changes in provisions relating to illegal purchase or
3 possession of alcohol and tobacco by juveniles and youthful
4 offenders, providing for the taking of fingerprints and
5 photographs of certain juveniles, making changes related to
6 the supplying of alcohol to persons under the age of twenty-
7 one, providing for sharing of information regarding delinquent
8 juveniles and juveniles under the jurisdiction of various
9 social services agencies, providing for shared jurisdiction
10 between the adult and juvenile courts over youthful offenders,
11 and authorizing school officials to conduct searches of
12 students and their lockers and other spaces and to report
13 possession or use of alcohol or controlled substances to law
14 enforcement authorities.

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

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1 Section 1. Section 123.47A, Code 1997, is amended to read
2 as follows:

3 123.47A PERSONS AGE EIGHTEEN, NINETEEN, AND TWENTY --
4 PENALTY.

5 1. A person shall not sell, give, or otherwise supply
6 alcoholic liquor, wine, or beer to any person knowing or
7 having reasonable cause to believe that the person is age
8 eighteen, nineteen, or twenty.

9 2. A person age eighteen, nineteen, or twenty shall not
10 purchase, attempt to purchase, or possess alcoholic liquor,
11 wine, or beer. However

12 3. Notwithstanding subsections 1 and 2, a person age
13 eighteen, nineteen, or twenty may ~~possess alcoholic liquor,~~
14 ~~wine, or beer given to the person within~~ do any of the
15 following:

16 a. Possess alcoholic liquor, wine, or beer given to the
17 person within a private home with the knowledge, presence, and
18 consent of the person's parent or guardian, or with the
19 signed, written consent of the parent or guardian specifying
20 the date and place for the consumption and displayed by the
21 person upon demand, ~~and a person age eighteen, nineteen, or~~
22 ~~twenty may handle.~~

23 b. Handle alcoholic liquor, wine, and beer during the
24 course of the person's employment by a liquor control
25 licensee, or wine or beer permittee.

26 4. a. A person age eighteen, nineteen, or twenty, other
27 than a licensee or permittee, who commits a first an offense
28 under this section commits a scheduled violation of section
29 805.8, subsection 10. ~~A person, other than a licensee or~~
30 ~~permittee, who commits a second or subsequent violation of~~
31 ~~this section, commits a simple misdemeanor.~~

32 b. A person, other than a person age eighteen, nineteen,
33 or twenty or a licensee or permittee, who commits an offense
34 under this section commits a serious misdemeanor.

35 c. A licensee or permittee who violates this section with

1 respect to a person who is age nineteen or twenty is guilty of
2 a simple misdemeanor punishable by a fine of not more than
3 fifty dollars. The penalty provided under this section
4 against a licensee or permittee who violates this section with
5 respect to a person who is age nineteen or twenty is the only
6 penalty which shall be imposed against a licensee or permittee
7 who violates this section.

8 d. A licensee or permittee who violates this section with
9 respect to a person who is age eighteen commits a simple
10 misdemeanor, and is subject to the criminal and civil
11 penalties provided pursuant to sections 123.49 and 123.50 with
12 respect to selling, giving, or otherwise supplying alcoholic
13 beverages, liquor, wine, or beer to persons under legal age.

14 ~~2.--For-the-purpose-of-determining-if-a-violation-charged~~
15 ~~is-a-second-or-subsequent-offense,-a-conviction-or-plea-of~~
16 ~~guilty-to-a-violation-of-this-section-shall-be-counted-as-a~~
17 ~~previous-offense-~~

18 Sec. 2. Section 123.50, subsection 4, Code 1997, is
19 amended to read as follows:

20 4. A person, other than a licensee or permittee or a
21 minor, who violates section 123.47 is guilty of a serious
22 misdemeanor ~~punishable-by-a-minimum-fine-of-one-hundred~~
23 ~~dollars-for-a-first-offense,-two-hundred-and-fifty-dollars-for~~
24 ~~a-second-offense,-and-five-hundred-dollars-for-a-third-and~~
25 ~~subsequent-offense,-and-a-maximum-fine-for-any-offense-of-not~~
26 ~~more-than-one-thousand-dollars.~~

27 Sec. 3. Section 232.8, subsection 3, Code 1997, is amended
28 to read as follows:

29 3. The juvenile court, after a hearing and in accordance
30 with the provisions of section 232.45, may waive jurisdiction
31 of a child alleged to have committed a public offense so that
32 the child may be prosecuted as an adult or youthful offender
33 for such offense in another court. If the child, except a
34 child being prosecuted as a youthful offender, pleads guilty
35 or is found guilty of a public offense in another court of

1 this state that court may, with the consent of the child,
2 defer judgment and without regard to restrictions placed upon
3 deferred judgments for adults, place the child on probation
4 for a period of not less than one year upon such conditions as
5 it may require. Upon fulfillment of the conditions of
6 probation the child shall be discharged without entry of
7 judgment.

8 Sec. 4. Section 232.19, subsection 2, Code 1997, is
9 amended to read as follows:

10 2. When a child is taken into custody as provided in
11 subsection 1 the person taking the child into custody shall
12 notify the child's parent, guardian, or custodian as soon as
13 possible and shall not place bodily restraints, such as
14 handcuffs, on the child unless the child physically resists;
15 or threatens physical violence when being taken into custody;
16 is being taken into custody for an alleged delinquent act of
17 violence against a person; or when, in the reasonable judgment
18 of the officer, the child presents a risk of injury to the
19 child or others. ~~However, if the child is thirteen years of~~
20 ~~age or older, the child may be restrained by metal handcuffs~~
21 ~~only, for the purpose of transportation in a vehicle which is~~
22 ~~not equipped with a rear seat cage for prisoner transport and~~
23 ~~if the child is being taken into custody for an alleged~~
24 ~~delinquent act of violence against a person.~~ The child may
25 also be restrained by handcuffs or other restraints at any
26 time after the child is taken into custody if the child has a
27 known history of physical violence to others. Unless the
28 child is placed in shelter care or detention in accordance
29 with the provisions of section 232.21 or 232.22, the child
30 shall be released to the child's parent, guardian, custodian,
31 responsible adult relative, or other adult approved by the
32 court upon the promise of such person to produce the child in
33 court at such time as the court may direct.

34 Sec. 5. Section 232.19, Code 1997, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 4. Information pertaining to a child
2 taken into custody for a delinquent act which would be a
3 public offense is a public record and is not confidential
4 under section 232.147.

5 Sec. 6. NEW SECTION. 232.23 DETENTION -- YOUTHFUL
6 OFFENDERS.

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

11 2. a. The court shall determine, at the detention hearing
12 under section 232.44, the amount of bail, appearance bond, or
13 other conditions necessary for a child who has been waived for
14 prosecution as a youthful offender to be released from
15 detention or that the child should not be released from
16 detention.

17 b. A child placed in detention or released under this
18 subsection shall be supervised by a juvenile court officer or
19 juvenile court services personnel.

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

22 Sec. 7. Section 232.28, subsection 10, Code 1997, is
23 amended to read as follows:

24 10. A complaint filed with the court or its designee
25 pursuant to this section which alleges that a child has
26 committed a delinquent act which if committed by an adult
27 would be ~~an-aggravated-misdemeanor-or-a-felony-shall-be a~~
28 public offense is a public record and shall not be
29 confidential under section 232.147. The court, its designee,
30 or law enforcement officials are authorized to release the
31 complaint, including the identity of the child named in the
32 complaint.

33 Sec. 8. Section 232.44, Code 1997, is amended to read as
34 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, notwithstanding section 811.1. Any
16 written reports or records made available to the court at the
17 hearing shall be made available to the parties. A copy of the
18 petition or waiver order shall be given to each of the parties
19 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. 9. Section 232.45, subsection 1, Code 1997, 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. 10. Section 232.45, Code 1997, 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. 11. Section 232.45, Code 1997, 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. 12. Section 232.45, subsection 10, Code 1997, 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. 13. Section 232.45A, Code 1997, is amended by adding
16 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. 14. Section 232.50, subsection 1, Code 1997, 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. 15. Section 232.52, subsection 1, Code 1997, is
29 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. 16. Section 232.54, Code 1997, is amended by adding
10 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. 17. Section 232.55, Code 1997, 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. 18. 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. 19. Section 232.148, subsection 2, Code 1997, is
34 amended to read as follows:

35 2. Fingerprints and photographs of a child who has been

1 taken into custody ~~and who is fourteen years of age or older~~
2 may be taken and filed by a criminal or juvenile justice
3 agency investigating the commission of a public offense other
4 than a simple ~~or serious~~ misdemeanor. The criminal or
5 juvenile justice agency shall forward the fingerprints to the
6 department of public safety for inclusion in the automated
7 fingerprint identification system and may also retain a copy
8 of the fingerprint card for comparison with latent
9 fingerprints and the identification of repeat offenders.

10 Sec. 20. Section 232.149, subsection 2, Code 1997, is
11 amended to read as follows:

12 2. Records and files of a criminal or juvenile justice
13 agency concerning a child involved in a delinquent act are
14 public records, except that ~~a criminal or juvenile justice~~
15 ~~agency shall not~~ release the name of ~~a child until a complaint~~
16 ~~is filed pursuant to section 232.28 and~~ criminal history data
17 is, intelligence data, and law enforcement investigatory files
18 are subject to the provisions of section 22.7 and chapter 692.
19 The records are subject to sealing under section 232.150
20 unless the juvenile court waives its jurisdiction over the
21 child so that the child may be prosecuted as an adult for a
22 public offense.

23 Sec. 21. NEW SECTION. 280.24 PROCEDURES FOR REPORTING
24 DRUG OR ALCOHOL POSSESSION OR USE.

25 The board of directors of each public school and the
26 authorities in charge of each accredited nonpublic school
27 shall prescribe procedures which require school officials to
28 report any use or possession of alcoholic liquor, wine, or
29 beer or any controlled substance on school premises to local
30 law enforcement agencies, if the use or possession is in
31 violation of school policy or state law.

32 Sec. 22. NEW SECTION. 280.25 INFORMATION SHARING.

33 The board of directors of each public school and the
34 authorities in charge of each accredited nonpublic school
35 shall adopt rules which provide that the school district or

1 school may share information contained within a student's
 2 permanent record pursuant to an interagency agreement with the
 3 department of human services, school and law enforcement
 4 authorities, and other signatory agencies. The purpose of the
 5 agreement shall be to reduce juvenile crime by promoting
 6 cooperation and collaboration and the sharing of appropriate
 7 information between the parties in a joint effort to improve
 8 school safety, reduce alcohol and illegal drug use, reduce
 9 truancy, reduce in-school and out-of-school suspensions, and
 10 to support alternatives to in-school and out-of-school
 11 suspensions and expulsions which provide structured and well-
 12 supervised educational programs supplemented by coordinated
 13 and appropriate services designed to correct behaviors that
 14 lead to truancy, suspension, and expulsions and to support
 15 students in successfully completing their education.

16 Information shared under the agreement shall be used solely
 17 for determining the programs and services appropriate to the
 18 needs of the juvenile or the juvenile's family, or
 19 coordinating the delivery of programs and services to the
 20 juvenile or the juvenile's family. Information shared under
 21 the agreement is not admissible in any court proceedings which
 22 take place prior to a disposition hearing, unless written
 23 consent is obtained from a student's parent, guardian, or
 24 legal or actual custodian.

25 A school or school district entering into an interagency
 26 agreement under this section shall adopt a policy implementing
 27 the provisions of the interagency agreement. The policy shall
 28 include, but not be limited to, the provisions of the
 29 interagency agreement and the procedures to be used by the
 30 school or school district to share information from the
 31 student's permanent record with participating agencies. The
 32 policy shall be published in the student handbook.

33 Sec. 23. Section 321.216B, Code 1997, is amended to read
 34 as follows:

35 321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S

1 IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

2 A person who is under the age of twenty-one, who alters or
3 displays or has in the person's possession a fictitious or
4 fraudulently altered motor vehicle license or nonoperator's
5 identification card and who uses the license to violate or
6 attempt to violate section 123.47 or 123.47A, commits a simple
7 misdemeanor punishable by a fine of one hundred dollars. The
8 court shall forward a copy of the conviction or order of
9 adjudication under section 232.47 to the department.

10 Sec. 24. Section 331.653, subsection 58, Code 1997, is
11 amended to read as follows:

12 58. Report information on crimes committed and delinquent
13 acts committed, which would be an a serious or aggravated
14 misdemeanor or felony if committed by an adult, and furnish
15 disposition reports on persons arrested and juveniles taken
16 into custody, for a delinquent act which would be an a serious
17 or aggravated misdemeanor or felony if committed by an adult,
18 and criminal complaints or information or juvenile delinquency
19 petitions, alleging a delinquent act which would be an a
20 serious or aggravated misdemeanor or felony if committed by an
21 adult, filed in any court as provided in section 692.15.

22 Sec. 25. Section 602.1211, subsection 4, Code 1997, is
23 amended to read as follows:

24 4. A chief judge may designate other public officers to
25 accept bond money or security under section 232.23 or 811.2 at
26 times when the office of the clerk of court is not open.

27 Sec. 26. Section 602.8102, subsection 125, Code 1997, is
28 amended to read as follows:

29 125. Furnish a disposition of each criminal complaint or
30 information or juvenile delinquency petition, alleging a
31 delinquent act which would be an a serious or aggravated
32 misdemeanor or felony if committed by an adult, filed in the
33 district or juvenile court to the department of public safety
34 as provided in section 692.15.

35 Sec. 27. Section 692.1, subsections 1 and 9, Code 1997,

1 are amended to read as follows:

2 1. "Adjudication data" means information that an
3 adjudication of delinquency for an act which would be an a
4 serious or aggravated misdemeanor or felony if committed by an
5 adult was entered against a juvenile and includes the date and
6 location of the delinquent act and the place and court of
7 adjudication.

8 9. "Custody data" means information pertaining to the
9 taking into custody, pursuant to section 232.19, of a juvenile
10 for a delinquent act which would be an a serious or aggravated
11 misdemeanor or felony if committed by an adult, and includes
12 the date, time, place, and facts and circumstances of the
13 delinquent act. Custody data includes warrants for the taking
14 into custody for all delinquent acts outstanding and not
15 served and includes the filing of a petition pursuant to
16 section 232.35, the date and place of the alleged delinquent
17 act, and the county of jurisdiction.

18 Sec. 28. Section 724.26, Code 1997, is amended to read as
19 follows:

20 724.26 RECEIPT, TRANSPORTATION, AND DOMINION AND CONTROL
21 OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

22 A person who is convicted of a felony in a state or federal
23 court, or who is adjudicated delinquent on the basis of
24 conduct that would constitute a felony if committed by an
25 adult, and who knowingly has under the person's dominion and
26 control, receives, or transports or causes to be transported a
27 firearm or offensive weapon is guilty of a class "D" felony.

28 Sec. 29. Section 805.8, subsection 10, paragraph a, Code
29 1997, is amended to read as follows:

30 a. For violations of section 123.47A~~7~~-which-constitute
31 first-offenses-as-provided-in-that-section~~7~~, by persons age
32 eighteen, nineteen, or twenty the scheduled fine is fifteen
33 one hundred dollars.

34 Sec. 30. Section 805.8, subsection 11, unnumbered
35 paragraph 1, is amended to read as follows:

1 For violations of section 142B.6 ~~or~~, the scheduled fine is
2 twenty-five dollars. For violations of section 453A.2,
3 subsection 2, the scheduled fine is twenty-five one hundred
4 dollars, and. A fine imposed under this paragraph is a civil
5 penalty, and the criminal penalty surcharge under section
6 911.2 shall not be added to the penalty, and the court costs
7 pursuant to section 805.9, subsection 6, shall not be imposed.
8 If the civil penalty assessed for a violation of section
9 142B.6 is not paid in a timely manner, a citation shall be
10 issued for the violation in the manner provided in section
11 804.1. However, a person under age eighteen shall not be
12 detained in a secure facility for failure to pay the civil
13 penalty. The complainant shall not be charged a filing fee.

14 Sec. 31. Section 808A.1, subsection 1, paragraph d, Code
15 1997, is amended by striking the paragraph.

16 Sec. 32. Section 808A.2, subsection 1, Code 1997, is
17 amended by striking the subsection and inserting in lieu
18 thereof the following:

19 1. The board of directors of each public school district
20 and the authorities in charge of each nonpublic school shall
21 adopt a student search rule. The student search rule shall be
22 published in each district's and each nonpublic school's
23 student handbook. A school official may search individual
24 students and individual protected student areas in either of
25 the following situations:

26 a. If the official has reasonable grounds for suspecting
27 that the search will produce evidence that a student has
28 violated or is violating either the law or a school rule or
29 regulation.

30 b. School officials may search more than one student or
31 protected student area pursuant to a student search rule. A
32 student search rule allowing searches of more than one student
33 or protected student area must be reasonably based on
34 balancing the need for the search against any intrusion of a
35 protected student area. Any search conducted pursuant to this

1 paragraph must be conducted in a manner reasonably related to
2 the circumstances which justified the search.

3 Sec. 33. Section 808A.2, subsection 2, Code 1997, is
4 amended to read as follows:

5 ~~2. Notwithstanding subsection 1, paragraphs "a" through~~
6 ~~"c", as they apply to searches of protected student areas,~~
7 school School officials may conduct periodic inspections of
8 all, or a randomly selected number of, school lockers, desks,
9 or other facilities. The furnishing of a school locker, desk,
10 or other facility or space owned by the school and provided as
11 a courtesy to a student shall not create a protected student
12 area, and shall not give rise to an expectation of privacy on
13 a student's part with respect to that locker, desk, facility,
14 or space. However, the school district shall provide written
15 notice to each student, ~~and the adult who enrolls the student~~
16 ~~at the school,~~ and the student's parent, guardian, or legal
17 custodian, that school officials may conduct periodic
18 inspections of ~~all~~ school lockers, desks, facilities, or
19 spaces without prior notice. ~~An inspection under this~~
20 ~~subsection shall only occur in the presence of the students~~
21 ~~whose lockers are being inspected.~~

22 Sec. 34. Section 808A.2, subsection 5, Code 1997, is
23 amended by striking the subsection.

24 Sec. 35. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED
25 SENTENCE -- YOUTHFUL OFFENDER STATUS.

26 1. Notwithstanding section 907.3, the trial court shall,
27 upon a plea of guilty or a verdict of guilty, defer sentence
28 of a youthful offender over whom the juvenile court has waived
29 jurisdiction pursuant to section 232.45, subsection 6A, and
30 place the juvenile on youthful offender status. The court
31 shall transfer supervision of the youthful offender to the
32 juvenile court for disposition in accordance with section
33 232.52. The court shall require supervision of the youthful
34 offender in accordance with section 232.54, subsection 8 or
35 subsection 2, of this section.

1 2. The court shall hold a hearing prior to a youthful
2 offender's eighteenth birthday to determine whether the
3 youthful offender shall continue on youthful offender status
4 after the youthful offender's eighteenth birthday under the
5 supervision of the court or be discharged. The court shall
6 review the report of the juvenile court regarding the youthful
7 offender and shall hear evidence by or on behalf of the
8 youthful offender, by the county attorney, and by the person
9 or agency to whom custody of the youthful offender was
10 transferred. The court shall make its decision after
11 considering the services available to the youthful offender,
12 the evidence presented, the juvenile court's report, the
13 interests of the youthful offender, and interests of the
14 community.

15 3. Notwithstanding any provision of the Code which
16 prescribes a mandatory minimum sentence for the offense
17 committed by the youthful offender, following transfer of the
18 youthful offender from the juvenile court back to the court
19 having jurisdiction over the criminal proceedings involving
20 the youthful offender, the court may continue the youthful
21 offender deferred sentence or enter a sentence, which may be a
22 suspended sentence. However, a youthful offender shall not be
23 placed on probation for longer than five years. During the
24 period of probation, a youthful offender who violates the
25 terms of probation is subject to section 908.11.

26 Sec. 36. Section 908.11, Code 1997, is amended to read as
27 follows:

28 908.11 VIOLATION OF PROBATION.

29 A probation officer or the judicial district department of
30 correctional services having probable cause to believe that
31 any person released on probation has violated the conditions
32 of probation shall proceed by arrest or summons as in the case
33 of a parole violation. The functions of the liaison officer
34 and the board of parole shall be performed by the judge or
35 magistrate who placed the alleged violator on probation if

1 that judge or magistrate is available, otherwise by another
 2 judge or magistrate who would have had jurisdiction to try the
 3 original offense. If the probation officer proceeds by
 4 arrest, any magistrate may receive the complaint, issue an
 5 arrest warrant, or conduct the initial appearance and probable
 6 cause hearing if it is not convenient for the judge who placed
 7 the alleged violator on probation to do so. The initial
 8 appearance, probable cause hearing, and probation revocation
 9 hearing, or any of them, may at the discretion of the court be
 10 merged into a single hearing when it appears that the alleged
 11 violator will not be prejudiced thereby. If the violation is
 12 established, the court may continue the probation or youthful
 13 offender status with or without an alteration of the
 14 conditions of probation or a youthful offender status. If the
 15 defendant is an adult or a youthful offender the court may
 16 hold the defendant in contempt of court and sentence the
 17 defendant to a jail term while continuing the probation or
 18 youthful offender status, order the defendant to be placed in
 19 a violator facility established pursuant to section 904.207
 20 while continuing the probation or youthful offender status, or
 21 revoke the probation or youthful offender status and require
 22 the defendant to serve the sentence imposed or any lesser
 23 sentence, and, if imposition of sentence was deferred, may
 24 impose any sentence which might originally have been imposed.

25 EXPLANATION

26 This bill makes a variety of changes that relate to illegal
 27 conduct by juveniles and youthful offenders, including
 28 violations of alcohol regulations, the sharing of information
 29 regarding delinquent juveniles and juveniles under the
 30 jurisdiction of various social services agencies, the sharing
 31 of jurisdiction between the adult and juvenile courts for
 32 certain youthful offenders, and the authorization of school
 33 officials to conduct searches of students and their lockers
 34 and to report possession or use of alcohol or controlled
 35 substances to law enforcement authorities.

1 Code sections 123.47A and 805.8 are amended to make all
2 purchases or attempts to purchase alcohol by 18-year-olds, 19-
3 year-olds, or 20-year-olds a scheduled violation of \$100. A
4 first offense would no longer be treated as a scheduled
5 violation punishable by a \$15 fine. Sales or gifts of alcohol
6 to persons aged 18, 19, or 20 are made serious misdemeanors.
7 Code section 123.50 is amended to make the sale, gift, or
8 supplying of alcoholic beverages to persons under the age of
9 18 a serious misdemeanor. The penalty applicable to the same
10 conduct vis-a-vis 18, 19, and 20-year-olds is also made a
11 serious misdemeanor.

12 Code section 321.216B is amended to make the penalty
13 applicable to the alteration of a driver's license or a
14 nonoperator's identification card for purposes illegally
15 purchasing alcohol a fine of \$100.

16 Code section 232.19 is amended to allow a peace officer to
17 restrain any juvenile who presents a risk of danger or injury
18 to the child or others, or is taken into custody for an act of
19 violence against a person. Currently, if the child is 13
20 years of age or older, the child may be restrained by metal
21 handcuffs only when a transporting vehicle is not equipped
22 with a rear seat prisoner transport cage and the child is
23 being taken into custody for an alleged delinquent act of
24 violence against a person. Code section 232.19 is amended to
25 provide that the name of a juvenile taken into custody for a
26 delinquent act which would be a serious or an aggravated
27 misdemeanor or a felony is a public record when the juvenile
28 is taken into custody. Code section 232.28 is amended to
29 provide that a complaint alleging the commission of a
30 delinquent act by a juvenile is a public record if the
31 delinquent act alleged is a serious misdemeanor or greater.
32 Currently, the delinquent act must be an aggravated
33 misdemeanor or greater for the complaint to be a public
34 record. Code sections 331.653 and 602.8102 are amended to add
35 serious misdemeanors to the list of offenses currently

1 reported by the sheriff and the court to the department of
 2 public safety. Code section 692.1 is amended to provide that
 3 criminal history data regarding juveniles shall be maintained
 4 by the department of public safety if the juvenile is
 5 adjudicated delinquent of a serious misdemeanor or greater.
 6 Currently, criminal history data is maintained only for
 7 juveniles adjudicated delinquent for aggravated misdemeanors
 8 or felonies.

9 The bill also makes numerous changes to Code chapter 232,
 10 changes Code section 602.1211, and creates a new Code section
 11 907.3A to provide for shared jurisdiction between the adult
 12 and juvenile courts over a juvenile who has committed certain
 13 crimes. A juvenile who commits certain crimes would become
 14 subject to the jurisdiction of the district court to be tried
 15 or to plead guilty as an adult and would receive a deferred
 16 sentence and be placed on youthful offender probation as an
 17 adult. The juvenile would then be transferred to the
 18 supervision of the juvenile court which would enter a
 19 dispositional order as if it had adjudicated the juvenile a
 20 delinquent. At the juvenile's eighteenth birthday, unless
 21 supervision is terminated sooner by the juvenile court, the
 22 juvenile would be returned to the district court for a hearing
 23 at which the court will determine whether the juvenile, now an
 24 adult, should continue on youthful offender status or be
 25 discharged from youthful offender status as an adult.

26 Juveniles eligible for youthful offender status are those
 27 under the age of 16 who commit drug offenses while possessing
 28 a firearm or offensive weapon, criminal gang participation
 29 involving a firearm or offensive weapon, a felony violation of
 30 Code chapter 724 regarding firearms or offensive weapons, or a
 31 forcible felony. These are the same offenses for which
 32 juveniles age 16 or 17 are excluded from the jurisdiction of
 33 the juvenile court.

34 The bill provides that a juvenile may attain youthful
 35 offender status through the waiver of jurisdiction process in

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1 the manner that juveniles are currently waived from the
2 jurisdiction of the juvenile court. The juvenile court can
3 waive its jurisdiction for the purpose of the juvenile being
4 prosecuted as a youthful offender after considering the best
5 interests of the child and community, the resources available
6 to the juvenile court prior to the juvenile's eighteenth
7 birthday, and whether the juvenile should be subject to
8 continued court supervision past the juvenile's eighteenth
9 birthday.

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

17 In addition, juveniles who receive youthful offender
18 deferred sentence shall be subject to the supervision of the
19 juvenile court while on youthful offender status until age 18,
20 unless the juvenile court sooner terminates its supervision
21 because it believes the juvenile has been rehabilitated or the
22 juvenile violates the terms of the juvenile court's order. If
23 the termination is due to a violation of the terms of the
24 order, the juvenile is treated the same as an adult who has
25 been arrested for a probation violation. In this case, a
26 juvenile could be sentenced as an adult for the youthful
27 offender status violation, including the reinstatement of the

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1 officials must adopt a student search rule, publish the rule
2 in the student handbook, and provide written notice to a
3 student and the student's parent, guardian, or custodian that
4 the school may conduct periodic inspections of all school
5 lockers, desks, facilities, and spaces without prior
6 notification. The requirements that notice be provided to an

1 after age 18 is reached after considering the best interests
 2 of the offender and the community. At this point, the
 3 offender will be treated the same as other adults who have
 4 received a deferred sentence and been placed on probation
 5 regarding services or placement. However, although the bill
 6 provides that youthful offenders are to be treated as adults,
 7 youthful offender deferred sentences will be given for
 8 offenses which would not be eligible for deferred sentence if
 9 committed by an adult.

10 Code section 724.26 is amended to add language which
 11 includes juveniles who have been adjudicated delinquent on the
 12 basis of conduct that would constitute a felony if committed
 13 by an adult within the prohibition against convicted felons
 14 being able to receive, transport, or have dominion or control
 15 over a firearm.

16 Code section 805.8, subsection 11, is amended to raise the
 17 civil penalty for illegal use, purchase, attempt to purchase,
 18 or possession of various tobacco products by minors from \$25
 19 to \$100.

20 Two new sections are added to the chapter governing uniform
 21 school requirements, Code chapter 280, to provide for the
 22 reporting of illegal drug or alcohol use on school premises to
 23 law enforcement and for the sharing of information between
 24 school officials and various agencies pursuant to interagency
 25 agreements designed to reduce juvenile crime, improve school
 26 safety, reduce truancy, reduce suspensions and expulsions, and
 27 to support various alternatives which support students in
 28 successfully completing their education.

29 The bill also amends chapter 808A to establish school
 30 authority to conduct student and locker searches. The
 31 amendments provide that student lockers, desks, facilities,
 32 and spaces owned and furnished by a school and provided as a
 33 courtesy to the student are not characterized as protected
 34 student areas, and their use does not give rise to an
 35 expectation of privacy on the student's part. School

1 officials must adopt a student search rule, publish the rule
2 in the student handbook, and provide written notice to a
3 student and the student's parent, guardian, or custodian that
4 the school may conduct periodic inspections of all school
5 lockers, desks, facilities, and spaces without prior
6 notification. The requirements that notice be provided to an
7 adult who enrolls a student, and that the student be present
8 during a locker search, are eliminated. The reasonable and
9 articulable suspicion standard is eliminated with regard to
10 school official searches of individual students, substituting
11 a reasonable grounds standard in its place. Searches of more
12 than one student or student area must be reasonably based on
13 balancing the need for the search against any protected
14 student area intrusion, and be conducted in a manner
15 reasonably related to circumstances perceived as justifying
16 the search.

17 This bill may create a state mandate under chapter 25B.

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SENATE FILE 515

AN ACT

RELATING TO JUVENILE JUSTICE AND YOUTHFUL OFFENDERS, BY MAKING CHANGES IN PROVISIONS RELATING TO ILLEGAL PURCHASE OR POSSESSION OF ALCOHOL BY JUVENILES AND YOUTHFUL OFFENDERS, MAKING CHANGES RELATING TO DRAMSHOP LIABILITY, PROVIDING FOR NOTIFICATION OF POSSESSION OF ALCOHOL BY PERSONS UNDER LEGAL AGE, PROVIDING FOR THE TAKING OF FINGERPRINTS AND PHOTOGRAPHS OF CERTAIN JUVENILES, PERMITTING VICTIMS TO MAKE ORAL VICTIM IMPACT STATEMENTS IN JUVENILE PROCEEDINGS, MAKING CHANGES RELATED TO THE SUPPLYING OF ALCOHOL TO PERSONS UNDER THE AGE OF TWENTY-ONE, PROVIDING FOR SHARING OF INFORMATION REGARDING DELINQUENT JUVENILES AND JUVENILES UNDER THE JURISDICTION OF VARIOUS SOCIAL SERVICES AGENCIES, PROVIDING FOR SHARED JURISDICTION BETWEEN THE ADULT AND JUVENILE COURTS OVER YOUTHFUL OFFENDERS, CHANGING THE CRITERIA FOR PLACEMENT IN THE STATE TRAINING SCHOOL OR OTHER FACILITY, MAKING CHANGES RELATING TO STATE REIMBURSEMENT FOR EXPENSES OF COURT-APPOINTED ATTORNEYS IN JUVENILE COURT, PERMITTING THE RELEASE OF INFORMATION RELATING TO JUVENILES WHO HAVE ESCAPED FROM A DETENTION FACILITY, PROVIDING FOR NOTIFICATION OF JUVENILE COURT AUTHORITIES OF UNEXCUSED ABSENCES OR SUSPENSIONS OR EXPULSIONS OF STUDENTS WHO ARE ON PROBATION, PROVIDING FOR ESTABLISHMENT OF STATEWIDE PEER REVIEW COURTS FOR YOUTHFUL OFFENDERS, PROVIDING FOR BAILIFF AND OTHER LAW ENFORCEMENT ASSISTANCE TO ASSOCIATE JUVENILE JUDGES, INCLUDING ARREST OR DISPOSITION OR CUSTODY OR ADJUDICATION DATA IN CRIMINAL HISTORY DATA KEPT BY THE DEPARTMENT OF PUBLIC SAFETY, AUTHORIZING SCHOOL OFFICIALS TO REPORT POSSESSION OR USE OF ALCOHOL OR CONTROLLED SUBSTANCES TO LAW ENFORCEMENT AUTHORITIES, AND PROVIDING FOR A LEGISLATIVE STUDY.

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

Section 1. Section 123.3, subsection 19, Code 1997, is amended to read as follows:

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

Sec. 2. Section 123.47, Code 1997, is amended to read as follows:

123.47 PERSONS UNDER ~~THE~~ LEGAL AGE ~~OF-EIGHTEEN~~ -- 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 person to be under the legal age of eighteen-and-a.

2. A person or persons under the legal 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 legal age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian, 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 legal 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.

3. A person who is under legal age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer shall pay a twenty-five-dollar penalty, or possessing or having control of alcoholic liquor, wine, or beer, commits a simple misdemeanor punishable by a fine of one hundred dollars for the first offense. A second or subsequent offense shall be a serious misdemeanor punishable by a fine of two hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year. The court may, in its discretion, order the person who is under

legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section. However, if the person who commits the violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

4. Except as otherwise provided in subsections 5 and 6, a person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section commits a serious misdemeanor punishable by a minimum fine of five hundred dollars.

5. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in serious injury to any person commits an aggravated misdemeanor.

6. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in the death of any person commits a class "D" felony.

Sec. 3. Section 123.47B, Code 1997, is amended to read as follows:

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

1. A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of alcoholic liquor, wine, or beer in violation of section 123.47 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 or a citation is issued pursuant to section 805.16, 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.

2. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the possession. If the person is taken into custody, the peace officer shall notify a juvenile court officer who 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 or 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. 4. Section 123.49, subsection 3, Code 1997, is amended to read as follows:

3. No A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee. If any person under legal age misrepresents the person's age, and the licensee or permittee establishes that the licensee or permittee made reasonable inquiry to determine whether the prospective purchaser was over legal age, the licensee or permittee is not guilty of selling alcoholic liquor, wine, or beer to minors a person under legal age.

Sec. 5. Section 123.50, subsection 1, Code 1997, 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 serious misdemeanor punishable ~~as a scheduled violation under section 805-07-subsection-107-paragraph-"b"~~ by a fine of one thousand five hundred dollars. If the violation is committed by a

person who is employed by a licensee or permittee, the licensee or permittee and the individual shall each be deemed to have committed the violation and shall each be punished as provided in this subsection.

Sec. 6. Section 123.50, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 7. Section 123.92, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 123.49, subsection 1, any person who is injured in person or property or means of support by an intoxicated person who is under legal age or resulting from the intoxication of a person who is under legal age, has a right of action for all damages actually sustained, severally or jointly, against a person who is not a licensee or permittee and who dispensed or gave any beer, wine, or intoxicating liquor to the intoxicated under-age person when the nonlicensee or nonpermittee who dispensed or gave the beer, wine, or intoxicating liquor to the under-age person knew or should have known the under-age person was intoxicated, or who dispensed or gave beer, wine, or intoxicating liquor to the under-age person to a point where the nonlicensee or nonpermittee knew or should have known that the under-age person would become intoxicated. If the injury was caused by an intoxicated person who is under legal age, a person who is not a licensee or permittee and who dispensed or gave beer, wine, or intoxicating liquor to the under-age person may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the under-age person. For purposes of this paragraph, "dispensed" or "gave" means the act of physically presenting a receptacle containing beer, wine, or intoxicating liquor to the under-age person whose actions or intoxication results in the sustaining of damages by another person. However, a person who dispenses or gives beer, wine, or intoxicating liquor to an under-age person shall only be liable for any damages if the person knew or should have known that the under-age person was under legal age.

Sec. 8. Section 137C.25C, subsection 3, Code 1997, is amended to read as follows:

3. The owner or operator reasonably believes that the individual is using the premises for an unlawful purpose including, but not limited to, the unlawful use or possession of controlled substances or the use of the premises for the consumption of alcohol by an individual in violation of section 123.47 ~~or 123.47A~~.

Sec. 9. Section 216A.138, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The plan shall include development of a resource guide outlining successful programs and practices established within this state which are designed to promote positive youth development and that assist delinquent and other at-risk youth in overcoming personal and social problems. The guide shall be made publicly available.

Sec. 10. Section 232.2, subsection 12, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The violation of section 123.47 which is committed by a child.

Sec. 11. Section 232.8, subsection 3, Code 1997, is amended to read as follows:

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

Sec. 12. Section 232.19, subsection 2, Code 1997, 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.~~ The person may place bodily restraints, such as handcuffs, on the child unless if the child physically resists; or threatens physical violence when being taken into custody; is being taken into custody for an alleged delinquent act of violence against a person; or when, in the reasonable judgment of the officer, the child presents a risk of injury to the child or others. ~~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. 13. Section 232.19, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Information pertaining to a child who is at least ten years of age and who is taken into custody for a delinquent act which would be a public offense is a public record and is not confidential under section 232.147.

Sec. 14. Section 232.22, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding any other provision of the Code to the contrary, a child shall not be placed in detention for a violation of section 123.47, or for failure to comply with a dispositional order which provides for performance of community service for a violation of section 123.47.

Sec. 15. NEW SECTION. 232.23 DETENTION -- YOUTHFUL OFFENDERS.

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

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

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

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

Sec. 16. Section 232.28, subsection 10, Code 1997, is amended to read as follows:

10. A complaint filed with the court or its designee pursuant to this section which alleges that a child who is at least ten years of age and who has committed a delinquent act which if committed by an adult would be an aggravated misdemeanor or a felony shall be a public offense is a public record and shall not be confidential under section 232.147. The court, its designee, or law enforcement officials are authorized to release the complaint, including the identity of the child named in the complaint.

Sec. 17. Section 232.28, subsection 11, Code 1997, is amended to read as follows:

11. If a complaint is filed under this section, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court containing the information specified for a victim impact statement under section 910A.5. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also orally present a victim impact statement. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

Sec. 18. Section 232.28A, subsection 1, paragraph d, Code 1997, is amended to read as follows:

d. To be notified of the person's right to offer a written victim impact statement and to orally present the victim impact statement under sections 232.28 and 910A.5.

Sec. 19. Section 232.44, Code 1997, is amended to read as follows:

232.44 DETENTION OR SHELTER CARE HEARING -- RELEASE FROM DETENTION UPON CHANGE OF CIRCUMSTANCE.

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

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.

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

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

4. At the hearing to determine whether detention or shelter care is authorized under section 232.21 or 232.22 the court shall admit only testimony and other evidence relevant to the determination of whether there is probable cause to believe the child has committed the act as alleged in the petition and to the determination of whether the placement of the child in detention or shelter care is authorized under section 232.21 or 232.22. At the hearing to determine whether a child who has been waived for prosecution as a youthful offender should be released from detention the court shall also admit evidence of the kind admissible to determine bond or bail under chapter 811, notwithstanding section 811.1. Any written reports or records made available to the court at the hearing shall be made available to the parties. A copy of the petition or waiver order shall be given to each of the parties at or before the hearing.

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

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

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

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

(2) Place restrictions on the child's travel, association, or place of residence during the period of release.

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

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

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

6. If the court finds that there is probable cause to believe that the child is within the jurisdiction of the court under this chapter and that full-time detention or shelter care is authorized under section 232.21 or 232.22 or that detention is authorized under section 232.23, it may issue an

order authorizing either shelter care or detention until the adjudicatory hearing or trial is held or for a period not exceeding seven days, whichever is shorter. However, in the case of a child placed in detention under section 232.23, this period may be extended by agreement of the parties and the court.

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 subsection may be held by telephone conference call.

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

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

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

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

Sec. 20. Section 232.45, subsection 1, Code 1997, is amended to read as follows:

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense or for purpose of prosecution of the child as an adult or a youthful offender. If the county attorney and the child agree, a motion for waiver for the purpose of being prosecuted as a youthful offender may be heard by the district court as part of the proceedings under section 907.3A, or by the juvenile court as provided in this section. If the motion for waiver for purpose of being prosecuted as a youthful offender is made as a result of a conditional agreement between the county attorney and the child, the conditions of the agreement shall be disclosed to the court in the same manner as provided in rules 8 and 9 of the Iowa rules of criminal procedure.

Sec. 21. Section 232.45, Code 1997, is amended by adding the following new subsection:

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

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

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

The court shall retain jurisdiction over the child for the purpose of determining whether the child should be released from detention under section 232.23. If the court has been apprised of conditions of an agreement between the county attorney and the child which resulted in a motion for waiver for purposes of the child being prosecuted as a youthful offender, and the court finds that the conditions are in the best interests of the child, the conditions of the agreement shall constitute conditions of the waiver order.

Sec. 22. Section 232.45, Code 1997, is amended by adding the following new subsection:

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

- a. The nature of the alleged delinquent act and the circumstances under which it was committed.
- b. The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.
- c. The age of the child, the programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities, and personnel which would be available to the district court after the child reaches the age of eighteen in the event the child is given youthful offender status.

Sec. 23. Section 232.45, subsection 10, Code 1997, is amended to read as follows:

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

Sec. 24. Section 232.45A, Code 1997, is amended by adding the following new subsection:

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

Sec. 25. Section 232.50, subsection 1, Code 1997, is amended to read as follows:

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

Sec. 26. Section 232.52, subsection 1, Code 1997, is amended to read as follows:

1. Pursuant to a hearing as provided in section 232.50, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child, and the child's prior record, or the fact that the child has received a youthful offender deferred sentence under section 907.3A. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual, agency, department or facility in whom custody is vested. In the case of a child who has received a youthful offender deferred sentence, the initial duration of the dispositional order shall be until the child reaches the age of eighteen.

Sec. 27. Section 232.52, subsection 2, paragraph g, Code 1997, is amended to read as follows:

g. An order placing a child, other than a child who has committed a violation of section 123.47, in secure custody for not more than two days in a facility under section 232.22, subsection 2, paragraph "a" or "b".

Sec. 28. Section 232.54, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 7. With respect to a juvenile court dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the dispositional order may be terminated prior to the child reaching the age of eighteen upon motion of the child, the person or agency to whom custody of the child has been transferred, or the county attorney following a hearing before the juvenile court if it is shown by clear and convincing evidence that it is in the best interests of the child and the community to terminate the order. The hearing may be waived if all parties to the proceeding agree. The dispositional order regarding a child who has received a youthful offender deferred sentence may also be terminated prior to the child reaching the age of eighteen upon motion of the county attorney, if the waiver of the child to district court was conditioned upon the terms of an agreement between the county attorney and the child violates the terms of the agreement after the waiver order has been entered. The district court shall discharge the child's youthful offender status upon receiving a termination order under this section.

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

a. After notice and hearing at which the facts of the child's violation of the terms of the order are found, the

juvenile court may refuse to modify the order, modify the order and impose a more restrictive order, or, after an assessment of the child by a juvenile court officer in consultation with the judicial district department of correctional services and if the child is age fourteen or over, terminate the order and return the child to the supervision of the district court under chapter 907.

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

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

Sec. 29. Section 232.55, Code 1997, is amended by adding the following new unnumbered paragraph:

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

Sec. 30. NEW SECTION. 232.56 YOUTHFUL OFFENDERS -- TRANSFER TO DISTRICT COURT SUPERVISION.

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

Sec. 31. Section 232.141, subsection 3, paragraph c, Code 1997, is amended to read as follows:

c. Costs incurred under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be reimbursed by the state. Reimbursement for the costs of compensation of an attorney appointed by the court to serve as counsel or guardian ad litem shall be made as provided in section 815.7. A county shall apply for reimbursement to the department of inspections and appeals which shall prescribe rules and forms to implement this subsection.

Sec. 32. Section 232.148, subsection 2, Code 1997, is amended to read as follows:

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 or juvenile justice agency investigating the commission of a public offense other than a simple ~~or serious~~ misdemeanor. The criminal or juvenile justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system and may also retain a copy of the fingerprint card for comparison with latent fingerprints and the identification of repeat offenders.

Sec. 33. Section 232.148, subsection 5, paragraph b, Code 1997, is amended to read as follows:

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,~~ or has not been placed on youthful offender status.

Sec. 34. Section 232.149, subsection 2, Code 1997, is amended to read as follows:

2. Records and files of a criminal or juvenile justice agency concerning a child involved in a delinquent act are public records, except that ~~a criminal or juvenile justice agency shall not~~ release the name of a child until a complaint

~~is filed pursuant to section 232.28 and~~ criminal history data ~~is~~, intelligence data, and law enforcement investigatory files is subject to the provisions of section 22.7 and chapter 692 and juvenile court social records, as defined in section 232.2, subsection 31, shall be deemed confidential criminal identification files under section 22.7, subsection 9. The records are subject to sealing under section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

Sec. 35. Section 232.149, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 2, if a juvenile who has been placed in detention under section 232.22, escapes from the facility, the criminal or juvenile justice agency may release the name of the juvenile, the facts surrounding the escape, and the offense or alleged offense which resulted in the placement of the juvenile in the facility.

Sec. 36. Section 232.150, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The person was not placed on youthful offender status, transferred back to district court after the youthful offender's eighteenth birthday, and sentenced for the offense which precipitated the youthful offender placement.

Sec. 37. NEW SECTION. 279.9B REPORTS TO JUVENILE AUTHORITIES.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

Sec. 38. NEW SECTION. 280.24 PROCEDURES FOR REPORTING DRUG OR ALCOHOL POSSESSION OR USE.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

Sec. 39. NEW SECTION. 280.25 INFORMATION SHARING.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall adopt a policy and the superintendent of each public school shall adopt rules which provide that the school district or school may share information contained within a student's permanent record pursuant to an interagency agreement with state and local agencies that are part of the juvenile justice system including the juvenile court, the department of human services, and local law enforcement authorities. The disclosure of information shall be directly related to the juvenile justice system's ability to effectively serve, prior to adjudication, the student whose records are being released. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information between the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education. Information shared under the agreement shall be used solely for

determining the programs and services appropriate to the needs of the juvenile or the juvenile's family, or coordinating the delivery of programs and services to the juvenile or the juvenile's family. Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or legal or actual custodian. The interagency agreement shall provide, and each signatory agency to the agreement shall certify in the agreement, that confidential information shared between the parties to the agreement shall remain confidential and shall not be shared with any other person, unless otherwise provided by law.

A school or school district entering into an interagency agreement under this section shall adopt a policy implementing the provisions of the interagency agreement. The policy shall include, but not be limited to, the provisions of the interagency agreement and the procedures to be used by the school or school district to share information from the student's permanent record with participating agencies. The policy shall be published in the student handbook.

Sec. 40. Section 321.216B, Code 1997, is amended to read as follows:

321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered motor vehicle license or nonoperator's identification card and who uses the license to violate or attempt to violate section 123.47 ~~or 123.47A~~, commits a simple misdemeanor punishable by a fine of one hundred dollars. The court shall forward a copy of the conviction or order of adjudication under section 232.47 to the department.

Sec. 41. Section 331.653, subsection 4, Code 1997, is amended to read as follows:

4. Provide bailiff and other law enforcement service to the district judges, district associate judges, and associate juvenile judges, and judicial magistrates of the county upon request.

Sec. 42. Section 331.653, subsection 58, Code 1997, is amended to read as follows:

58. Report information on crimes committed and delinquent acts committed, which would be an a serious or aggravated misdemeanor or felony if committed by an adult, and furnish disposition reports on persons arrested and juveniles taken into custody, for a delinquent act which would be an a serious or aggravated misdemeanor or felony if committed by an adult, and criminal complaints or information or juvenile delinquency petitions, alleging a delinquent act which would be an a serious or aggravated misdemeanor or felony if committed by an adult, filed in any court as provided in section 692.15.

Sec. 43. Section 602.1211, subsection 4, Code 1997, is amended to read as follows:

4. A chief judge may designate other public officers to accept bond money or security under section 232.23 or 811.2 at times when the office of the clerk of court is not open.

Sec. 44. Section 602.6110, Code 1997, is amended to read as follows:

602.6110 PEER REVIEW COURT ---PILOT-PROJECTS.

1. A peer review court is may be established as-a-pilot program in each judicial district to divert certain youthful offenders from the criminal or juvenile justice systems. The court shall consist of a qualified adult to act as judge with while the duties of prosecutor, defense counsel, court attendant, clerk, and jury composed-of shall be performed by persons ten twelve through seventeen years of age.

2. The jurisdiction of the peer review court extends to those persons ten through seventeen years of age who have committed misdemeanor offenses, or delinquent acts which would be misdemeanor offenses if committed by an adult, and-who-have entered-a-plea-of-guilty who have admitted involvement in the

misdemeanor or delinquent act, entered and who meet the criteria established for entering into an informal adjustment agreement, or agreed to the entry of a consent decree to for those offenses in district or juvenile court. Those persons may then elect to appear before the peer review court to receive sentence for a determination of the terms and conditions of the informal adjustment or may elect to proceed with the informal or formal procedures established in chapter 232.

3. The peer review court shall not determine guilt or innocence and any statements or admissions made by the person before the peer review court are not admissible in any formal proceedings involving the same person. The peer review court shall only determine the sentence for terms and conditions of the informal adjustment for the offense. The sentence terms and conditions may consist of fines, restrictions for damages, attendance at treatment programs, or community service work or any combination of these penalties as appropriate to the offense or delinquent act committed. A person appearing before the peer review court may also be required to serve as a juror on the court as a part of the person's sentence.

~~3- 4. Subject to the agreement of the chief judge of the judicial district, the supreme court shall designate two judicial districts in which to locate a peer review court pilot project.~~ The chief judge of the each judicial district which establishes a peer review court shall appoint a peer review court advisory board. The advisory board shall adopt rules for the peer review court advisory program, shall appoint persons to serve on the peer review court, and shall supervise the expenditure of funds appropriated to the program. Rules adopted shall include procedures which are designed to eliminate the influence of prejudice and racial and economic discrimination in the procedures and decisions of the peer review court.

Sec. 45. Section 602.8102, subsection 125, Code 1997, is amended to read as follows:

125. Furnish a disposition of each criminal complaint or information or juvenile delinquency petition, alleging a delinquent act which would be an a serious or aggravated misdemeanor or felony if committed by an adult, filed in the district or juvenile court to the department of public safety as provided in section 692.15.

Sec. 46. Section 692.1, subsections 1 and 9, Code 1997, are amended to read as follows:

1. "Adjudication data" means information that an adjudication of delinquency for an act which would be an a serious or aggravated misdemeanor or felony if committed by an adult was entered against a juvenile and includes the date and location of the delinquent act and the place and court of adjudication.

9. "Custody data" means information pertaining to the taking into custody, pursuant to section 232.19, of a juvenile for a delinquent act which would be an a serious or aggravated misdemeanor or felony if committed by an adult, and includes the date, time, place, and facts and circumstances of the delinquent act. Custody data includes warrants for the taking into custody for all delinquent acts outstanding and not served and includes the filing of a petition pursuant to section 232.35, the date and place of the alleged delinquent act, and the county of jurisdiction.

Sec. 47. Section 724.26, Code 1997, is amended to read as follows:

724.26 RECEIPT, TRANSPORTATION, AND DOMINION AND CONTROL OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class "D" felony.

Sec. 48. Section 805.8, subsection 10, paragraphs a and b, Code 1997, are amended by striking the paragraphs.

Sec. 49. Section 805.16, subsection 1, Code 1997, is amended to read as follows:

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 321, 321G, 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, ~~section 223-47~~ or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

Sec. 50. Section 815.7, Code 1997, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person charged with a crime in this state or to serve as counsel or guardian ad litem to a person in juvenile court in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district court or of the juvenile court, as applicable, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. However, the reasonable compensation awarded an attorney shall not be calculated based upon an hourly rate that exceeds the rate a contract attorney as provided in section 13B.4 would receive in a similar case. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so, the attorney's fee shall be determined accordingly. Only one attorney fee shall

be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 51. NEW SECTION. 907.3A YOUTHFUL OFFENDER DEFERRED SENTENCE -- YOUTHFUL OFFENDER STATUS.

1. Notwithstanding section 907.3 but subject to any conditions of the waiver order, the trial court shall, upon a plea of guilty or a verdict of guilty, defer sentence of a youthful offender over whom the juvenile court has waived jurisdiction pursuant to section 232.45, subsection 6A, and place the juvenile on youthful offender status. The court shall transfer supervision of the youthful offender to the juvenile court for disposition in accordance with section 232.52. The court shall require supervision of the youthful offender in accordance with section 232.54, subsection 8 or subsection 2, of this section. Notwithstanding section 901.2, a presentence investigation shall not be ordered by the court subsequent to an entry of a plea of guilty or verdict of guilty or prior to deferral of sentence of a youthful offender under this section.

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

3. Notwithstanding any provision of the Code which prescribes a mandatory minimum sentence for the offense committed by the youthful offender, following transfer of the

youthful offender from the juvenile court back to the court having jurisdiction over the criminal proceedings involving the youthful offender, the court may continue the youthful offender deferred sentence or enter a sentence, which may be a suspended sentence. Notwithstanding anything in section 907.7 to the contrary, if the district court either continues the youthful offender deferred sentence or enters a sentence, suspends the sentence, and places the youthful offender on probation, the term of formal supervision shall commence upon entry of the order by the district court and may continue for a period not to exceed five years. If the district court enters a sentence of confinement, and the youthful offender was previously placed in secure confinement by the juvenile court under the terms of the initial disposition order or any modification to the initial disposition order, the person shall receive credit for any time spent in secure confinement. During any period of probation imposed by the district court, a youthful offender who violates the terms of probation is subject to section 908.11.

Sec. 52. Section 908.11, Code 1997, is amended to read as follows:

908.11 VIOLATION OF PROBATION.

A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the liaison officer and the board of parole shall be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense. If the probation officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial

appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced thereby. If the violation is established, the court may continue the probation or youthful offender status with or without an alteration of the conditions of probation or a youthful offender status. If the defendant is an adult or a youthful offender the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation or youthful offender status, order the defendant to be placed in a violator facility established pursuant to section 904.207 while continuing the probation or youthful offender status, or revoke the probation or youthful offender status and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

Sec. 53. Section 910A.5, subsection 3, Code 1997, is amended to read as follows:

3. If a complaint is filed under section 232.28, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court as provided by section 232.28. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint. Unless the matter is disposed of at the preliminary inquiry conducted by the intake officer under section 232.28, the victim may also be allowed to orally present the victim impact statement.

Sec. 54. Section 123.47A, Code 1997, is repealed.

Sec. 55. JUVENILE JUSTICE INTERIM STUDY. The legislative council is requested to establish an interim study committee consisting of members of both political parties from both houses of the general assembly to review and consider the need for improvements in the laws and programs established to reform juvenile delinquents and reduce juvenile crime. The

study may include but is not limited to the review of the need for improvements in the current juvenile justice system, the youthful offender program, the programs established to combat substance abuse by juveniles, and the coordination of programs and information between the juvenile and adult criminal justice systems. The committee shall submit its findings, together with any recommendations, in a report to the general assembly which convenes in January 1998.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 515, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 7, 1997

TERRY E. BRANSTAD
Governor

SF 515