

Senate File 365 - Introduced

SENATE FILE 365
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1043)

A BILL FOR

1 An Act relating to the placement of a juvenile on youthful
2 offender status in district court.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.8, subsection 3, paragraph a, Code
2 2011, is amended to read as follows:

3 a. The juvenile court, after a hearing and in accordance
4 with the provisions of section 232.45, may waive jurisdiction
5 of a child alleged to have committed a public offense so
6 that the child may be prosecuted as an adult or youthful
7 offender for such offense in another court. If the child,
8 ~~except a child being prosecuted as a youthful offender,~~ pleads
9 guilty or is found guilty of a public offense other than a
10 class "A" felony in another court of this state, that court
11 may suspend the sentence or, with the consent of the child,
12 defer judgment and without regard to restrictions placed upon
13 deferred judgments for adults, place the child on probation for
14 a period of not less than one year upon such conditions as it
15 may require. Upon fulfillment of the conditions of probation,
16 a child who receives a deferred judgment shall be discharged
17 without entry of judgment. A child prosecuted as a youthful
18 offender shall be sentenced pursuant to section 907.3A.

19 Sec. 2. Section 232.50, subsection 1, Code 2011, is amended
20 to read as follows:

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

27 Sec. 3. Section 232.52, subsection 1, Code 2011, is amended
28 to read as follows:

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

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

9 Sec. 4. Section 232.54, subsection 1, paragraph g, Code
10 2011, is amended to read as follows:

11 g. With respect to a juvenile court dispositional order
12 entered regarding a child who has received a youthful offender
13 ~~deferred~~ sentence under section 907.3A, the dispositional
14 order may be terminated prior to the child reaching the age
15 of eighteen upon motion of the child, the person or agency to
16 whom custody of the child has been transferred, or the county
17 attorney following a hearing before the juvenile court if it
18 is shown by clear and convincing evidence that it is in the
19 best interests of the child and the community to terminate
20 the order. The hearing may be waived if all parties to the
21 proceeding agree. The dispositional order regarding a child
22 who has ~~received a youthful offender deferred sentence~~ been
23 placed on youthful offender status may also be terminated prior
24 to the child reaching the age of eighteen upon motion of the
25 county attorney, if the waiver of the child to district court
26 was conditioned upon the terms of an agreement between the
27 county attorney and the child, and the child violates the terms
28 of the agreement after the waiver order has been entered. The
29 district court shall discharge the child's youthful offender
30 status upon receiving a termination order under this section.

31 Sec. 5. Section 232.54, subsection 1, paragraph h,
32 unnumbered paragraph 1, Code 2011, is amended to read as
33 follows:

34 With respect to a dispositional order entered regarding a
35 child who has ~~received a youthful offender deferred sentence~~

1 been placed on youthful offender status under section 907.3A,
2 the juvenile court may, in the case of a child who violates the
3 terms of the order, modify or terminate the order in accordance
4 with the following:

5 Sec. 6. Section 232.55, subsection 3, Code 2011, is amended
6 to read as follows:

7 3. This section does not apply to dispositional orders
8 entered regarding a child who has received a youthful offender
9 ~~deferred~~ sentence under section 907.3A who is not discharged
10 from probation before or upon the child's eighteenth birthday.

11 Sec. 7. Section 232.56, Code 2011, is amended to read as
12 follows:

13 **232.56 Youthful offenders — transfer to district court**
14 **supervision.**

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

27 Sec. 8. Section 907.3A, Code 2011, is amended to read as
28 follows:

29 **907.3A Youthful offender deferred sentence — youthful**
30 **offender status.**

31 1. Notwithstanding section 907.3 but subject to any
32 conditions of the waiver order, the trial court shall, upon
33 a plea of guilty or a verdict of guilty, ~~defer sentence of a~~
34 ~~youthful offender~~ place the juvenile over whom the juvenile
35 court has waived jurisdiction pursuant to section 232.45,

1 subsection 7, ~~and place the juvenile~~ on youthful offender
 2 status. The court shall transfer supervision of the youthful
 3 offender to the juvenile court for disposition in accordance
 4 with section 232.52. An adjudication of delinquency entered
 5 by the juvenile court for a public offense shall not be deemed
 6 a conviction and shall not preclude the subsequent entry of
 7 a deferred judgment, conviction, or sentence by the district
 8 court. The court shall require supervision of the youthful
 9 offender in accordance with section 232.54, subsection 1,
 10 paragraph "h", or subsection 2 of this section. ~~Notwithstanding~~
 11 ~~section 901.2,~~ The court may order a presentence investigation
 12 ~~shall not be ordered by the court subsequent to an entry of a~~
 13 ~~plea of guilty or verdict of guilty or prior to deferral of~~
 14 ~~sentence of a youthful offender under this section~~
 15 under section 902.1.

16 2. The court shall hold a hearing prior to a youthful
 17 offender's eighteenth birthday to determine whether the
 18 youthful offender shall continue on youthful offender status
 19 after the youthful offender's eighteenth birthday ~~under~~
 20 ~~the supervision of the court or be discharged.~~ The court
 21 shall review the report of the juvenile court regarding the
 22 youthful offender and shall hear evidence by or on behalf of
 23 the youthful offender, by the county attorney, and by the
 24 person or agency to whom custody of the youthful offender was
 25 transferred. The court shall make its decision, pursuant
 26 to the sentencing options available in subsection 3, after
 27 considering the services available to the youthful offender,
 28 the evidence presented, the juvenile court's report, the
 29 interests of the youthful offender, and interests of the
 30 community.

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

1 youthful offender, the court ~~may continue the youthful offender~~
2 ~~deferred sentence or enter a sentence, which may be a suspended~~
3 ~~sentence.~~ shall order one of the following sentencing options:

4 (1) Defer judgment and place the youthful offender on
5 probation, upon the consent of the youthful offender.

6 (2) Defer the sentence and place the youthful offender
7 on probation upon such terms and conditions as the court may
8 require.

9 (3) Suspend the sentence and place the youthful offender
10 on probation upon such terms and conditions as the court may
11 require.

12 (4) A term of confinement.

13 (5) Discharge the youthful offender from youthful offender
14 status and terminate the sentence.

15 b. Notwithstanding anything in section 907.7 to the
16 contrary, if the district court ~~either~~ grants the youthful
17 offender a deferred judgment, continues the youthful offender
18 deferred sentence, or enters a sentence, and suspends the
19 sentence, and places the youthful offender on probation, the
20 term of formal supervision shall commence upon entry of the
21 order by the district court and may continue for a period not
22 to exceed five years. If the district court enters a sentence
23 of confinement, and the youthful offender was previously placed
24 in secure confinement by the juvenile court under the terms
25 of the initial disposition order or any modification to the
26 initial disposition order, the person shall receive credit for
27 any time spent in secure confinement. During any period of
28 probation imposed by the district court, a youthful offender
29 who violates the terms of probation is subject to section
30 908.11.

31 EXPLANATION

32 This bill relates to the placement of a juvenile on youthful
33 offender status in district court.

34 A youthful offender is a juvenile, 15 years of age or
35 younger, who is prosecuted in district court but is supervised

1 in juvenile court until the age of 18. Upon the youthful
2 offender attaining the age of 18, under current law, the
3 district court has discretion to discharge the sentence or
4 continue supervision of the youthful offender in district court
5 as provided Code section 907.3A.

6 The bill modifies the sentencing options for a youthful
7 offender upon the youthful offender attaining the age of
8 18. The bill allows the district court to defer judgment
9 of a juvenile who has been waived to district court pursuant
10 to Code section 232.45, subsection 7, for prosecution as a
11 youthful offender. The bill also allows the court to suspend
12 the sentence and place the youthful offender on probation upon
13 such terms and conditions as the court may require. Current
14 law only allows the district court to defer the sentence of a
15 juvenile who has been waived to district court pursuant to Code
16 section 232.45, subsection 7, for prosecution as a youthful
17 offender.

18 Under the bill and in current law, upon the youthful
19 offender attaining the age of 18, the district court retains
20 the power to defer the sentence and place the youthful offender
21 on probation; sentence the youthful offender to a term of
22 confinement, or discharge the youthful offender from youthful
23 offender status and terminate the sentence.

24 A "deferred judgment" means a sentencing option where the
25 adjudication of guilt and the imposition of a sentence are
26 deferred by the court. However, the court retains the power
27 to pronounce judgment and impose sentence subject to the
28 defendant's compliance with conditions set by the court as a
29 requirement of the deferred judgment.

30 A "deferred sentence" means a sentencing option where the
31 court enters an adjudication of guilt but does not impose a
32 sentence. The court does retain the power to sentence the
33 defendant to any sentence it originally could have imposed
34 subject to the defendant's compliance with conditions set by
35 the court as a requirement of the deferred sentence.

1 A "suspended sentence" means a sentencing option whereby
2 the court pronounces judgment and imposes a sentence and then
3 suspends execution of the sentence subject to the defendant's
4 compliance with conditions set by the court as a requirement of
5 the suspended sentence. Revocation of the suspended sentence
6 results in the execution of sentence already pronounced.