

House Study Bill 5 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

A BILL FOR

1 An Act providing access to child abuse records in juvenile
2 court and the prosecution of certain youthful offenders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.8, subsection 1, paragraph c, Code
2 2013, is amended to read as follows:

3 c. Violations by a child, aged sixteen or older, which
4 subject the child to the provisions of section 124.401,
5 subsection 1, paragraph "e" or "f", or violations of section
6 723A.2 which involve a violation of chapter 724, or violation
7 of chapter 724 which constitutes a felony, or violations which
8 constitute a forcible felony are excluded from the jurisdiction
9 of the juvenile court and shall be prosecuted as otherwise
10 provided by law unless the court transfers jurisdiction of the
11 child to the juvenile court upon motion and for good cause as
12 provided in section 803.6. A child over whom jurisdiction
13 has not been transferred to the juvenile court, and who is
14 convicted of a violation excluded from the jurisdiction of
15 the juvenile court under this paragraph, shall be sentenced
16 pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding
17 any other provision of the Code to the contrary, the court may
18 accept from a child a plea of guilty, or may instruct the jury
19 on a lesser included offense to the offense excluded from the
20 jurisdiction of the juvenile court under this section, in the
21 same manner as regarding an adult. However, the juvenile court
22 shall have exclusive original jurisdiction in a proceeding
23 concerning an offense of animal torture as provided in section
24 717B.3A alleged to have been committed by a child under the age
25 of seventeen.

26 Sec. 2. Section 232.28, subsection 3, paragraph b, Code
27 2013, is amended to read as follows:

28 b. Check existing records of the court, law enforcement
29 agencies, and public records of other agencies, and child abuse
30 records as provided in section 235A.15, subsection 2, paragraph
31 "e".

32 Sec. 3. Section 232.45, subsection 7, paragraph a,
33 subparagraph (1), Code 2013, is amended to read as follows:

34 (1) The child is ~~fifteen~~ seventeen years of age or younger.

35 Sec. 4. Section 235A.2, paragraph e, Code 2013, is amended

1 by adding the following new subparagraph:

2 NEW SUBPARAGRAPH. (24) To an intake officer making a
3 preliminary inquiry pursuant to section 232.28, subsection 3.

4 Sec. 5. Section 803.6, Code 2013, is amended to read as
5 follows:

6 **803.6 Transfer of jurisdiction — juvenile.**

7 1. The court, on its own motion, or upon motion of
8 any party, in the case of a juvenile who is alleged to
9 have committed a criminal offense listed in section 232.8,
10 subsection 1, paragraph "c", may direct a juvenile court officer
11 to provide a report regarding whether the child should be
12 transferred to juvenile court for adjudication and disposition
13 as a juvenile or prosecuted as a youthful offender pursuant to
14 section 907.3A.

15 2. ~~If the court believes that transfer may be appropriate~~
16 ~~the~~ The court shall hold a hearing on whether the child
17 should be transferred to juvenile court for adjudication and
18 disposition or prosecuted as a youthful offender pursuant to
19 section 907.3A. A notice of the time and place of the ~~transfer~~
20 hearing shall be given to all parties to the case. Prior to
21 the hearing, the court shall provide the defendant's counsel
22 and the county attorney with access to the report provided by
23 the juvenile court officer and to all written material to be
24 considered by the court.

25 3. After the hearing, the court may transfer jurisdiction
26 to the juvenile court if the court determines that waiver to
27 the criminal court would be inappropriate under the criteria
28 set forth in section 232.45, subsection 6, paragraph "c",
29 and section 232.45, subsection 8. In the alternative,
30 after considering the criteria set forth in section 232.45,
31 subsections 7 and 9, the court may order prosecution as a
32 youthful offender pursuant to section 907.3A.

33 4. If after the hearing the court transfers jurisdiction
34 over the defendant to the juvenile court for the alleged
35 commission of the public offense, the court shall forward the

1 transfer order together with all papers, documents, and a
2 transcript of all testimony filed or admitted into evidence in
3 connection with the case to the clerk of the juvenile court in
4 the same manner as provided in section 232.8, subsection 2. If
5 after hearing the court orders the defendant to be prosecuted
6 as a youthful offender, the defendant shall be prosecuted under
7 the procedures provided in section 907.3A.

8 5. A defendant transferred to the jurisdiction of the
9 juvenile court shall be placed in detention under section
10 232.22, or continued under bond conditions if bond has
11 previously been posted. A defendant prosecuted as a youthful
12 offender shall be detained pursuant to section 232.23. A
13 determination pursuant to section 232.23, subsection 2, may be
14 made by the district court based upon evidence submitted at the
15 hearing.

16 Sec. 6. Section 907.3A, subsection 1, Code 2013, is amended
17 to read as follows:

18 1. a. Notwithstanding section 907.3 but subject to any
19 conditions of the waiver order, the trial court shall, upon
20 a plea of guilty or a verdict of guilty, defer sentence of
21 a youthful offender over whom the juvenile court has waived
22 jurisdiction pursuant to section 232.45, subsection 7, and
23 place the juvenile on youthful offender status.

24 b. Notwithstanding section 907.3 and upon hearing under
25 section 803.6, the court may place a juvenile excluded from the
26 jurisdiction of the juvenile court pursuant to section 232.8,
27 subsection 1, paragraph "c", on youthful offender status.

28 c. The court shall transfer supervision of the youthful
29 offender to the juvenile court for disposition in accordance
30 with section 232.52. The court shall require supervision
31 of the youthful offender in accordance with section 232.54,
32 subsection 1, paragraph "h", or subsection 2 of this section.
33 Notwithstanding section 901.2, a presentence investigation
34 shall not be ordered by the court subsequent to an entry of a
35 plea of guilty or verdict of guilty or prior to deferral of

1 sentence of a youthful offender under this section.

2

EXPLANATION

3 This bill relates to access to child abuse records in
4 juvenile court and the prosecution of youthful offenders.

5 Under the bill, when a complaint is filed pursuant to Code
6 section 232.28 that a juvenile has committed a delinquent act,
7 the juvenile court intake officer making a preliminary inquiry
8 into the complaint shall be granted access to report data and
9 disposition data for cases of founded child abuse relating to
10 the juvenile who is the subject of the complaint. "Report
11 data" and "disposition data" are defined in Code section
12 235A.13.

13 The bill provides that a juvenile who is 17 years of age or
14 younger may be placed on youthful offender status pursuant to
15 the procedures of Code section 907.3A. Current law provides
16 that a juvenile 15 years of age or younger may be placed on
17 youthful offender status.

18 The bill also requires the district court to hold a hearing
19 for a juvenile excluded from the jurisdiction of juvenile court
20 pursuant to Code section 232.8(1)(c) because of the commission
21 of a serious offense to determine if the child should be
22 transferred to juvenile court for adjudication and disposition
23 as a juvenile or prosecuted as a youthful offender. Current
24 law requires such a hearing if the court believes a transfer
25 to juvenile court may be appropriate. Current law also does
26 not permit the court to place a juvenile on youthful offender
27 status if the juvenile has been excluded from the jurisdiction
28 of juvenile court for a serious offense.

29 The bill permits a juvenile excluded from the jurisdiction
30 of the juvenile court for a serious offense to remain on
31 bond if bond has been posted for the juvenile prior to being
32 transferred to juvenile court. Current law requires a juvenile
33 excluded from the jurisdiction of the juvenile court for a
34 serious offense to be placed in detention upon the transfer to
35 the jurisdiction of juvenile court.

1 A youthful offender is a juvenile who receives a conviction
2 and deferred sentence in district court but is supervised
3 in juvenile court. Prior to a youthful offender reaching
4 the age of 18, a hearing is conducted by the district court
5 to determine whether supervision of the juvenile should
6 continue in district court or the sentence be discharged. If
7 supervision of the youthful offender is continued in district
8 court, any mandatory minimums that apply to the offense do
9 not apply to the youthful offender unless the court enters a
10 sentence of confinement.