

Senate File 357 - Reprinted

SENATE FILE 357
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1109)

(As Amended and Passed by the Senate March 10, 2021)

A BILL FOR

- 1 An Act relating to the placement of a child in detention, and
- 2 including effective date provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.22, subsection 5, Code 2021, is
2 amended to read as follows:

3 5. ~~a.~~ A child shall not be detained in a facility under
4 subsection 3, paragraph "c", for a period of time in excess of
5 six hours without the oral or written order of a judge or a
6 magistrate authorizing the detention. A judge or magistrate
7 may authorize detention in a facility under [subsection 3](#),
8 paragraph "c", for a period of time in excess of six hours
9 but less than twenty-four hours, excluding weekends and legal
10 holidays, but only if all of the following occur or exist:

11 ~~(1)~~ a. The facility serves a geographic area outside a
12 standard metropolitan statistical area as determined by the
13 United States ~~census bureau~~ office of management and budget.

14 ~~(2)~~ b. The court determines that an acceptable alternative
15 placement does not exist pursuant to criteria developed by the
16 department of human services.

17 ~~(3)~~ c. The facility has been certified by the department
18 of corrections as being capable of sight and sound separation
19 pursuant to [this section](#) and [section 356.3](#).

20 ~~(4)~~ d. The child is awaiting an initial hearing before the
21 court pursuant to [section 232.44](#).

22 ~~b.~~ The restrictions contained in [this subsection](#) relating
23 to the detention of a child in a facility under subsection
24 3, paragraph "c", do not apply if the court has waived its
25 jurisdiction over the child for the alleged commission of a
26 felony offense pursuant to [section 232.45](#).

27 Sec. 2. Section 232.22, subsection 7, Code 2021, is amended
28 to read as follows:

29 7. a. If the juvenile court has waived its jurisdiction
30 over the child ~~for the alleged commission of a forcible felony~~
31 offense pursuant to [section 232.45](#) or [232.45A](#), ~~and there is~~
32 a serious risk that the child may commit an act which would
33 inflict serious bodily harm on another person, the child may
34 be held in the county jail, notwithstanding [section 356.3](#).

35 However, wherever possible the child shall be held in sight and

1 ~~sound separation from adult offenders. A child held in the~~
2 ~~county jail under this subsection shall have all the rights~~
3 ~~of adult postarrest or pretrial detainees, or the child is~~
4 ~~excluded from the jurisdiction of the juvenile court pursuant~~
5 ~~to section 232.8, subsection 1, paragraph "c", and the child~~
6 ~~is awaiting trial or other legal process, the child shall~~
7 ~~not be detained in any facility intended for the detention~~
8 ~~of adults unless the district court determines that after a~~
9 ~~hearing and issuing written findings, that such detention~~
10 ~~is in the best interest of the child and the community. In~~
11 ~~determining whether it is in the best interest of the child and~~
12 ~~the community to permit a child to be detained in a facility~~
13 ~~intended for the detention of adults, the court shall consider~~
14 ~~all of the following:~~

15 (1) The age of the child, including the child's physical and
16 mental maturity.

17 (2) The present mental state of the child, including whether
18 the child presents an imminent risk of harm to the child's
19 self.

20 (3) The nature and circumstances of the alleged offense.

21 (4) The child's history of prior delinquent acts.

22 (5) The relative ability of available adult and juvenile
23 detention facilities to not only meet the specific needs of the
24 child but also to protect the safety of the public as well as
25 other detained children.

26 (6) Any other relevant factor.

27 b. If a court determines pursuant to paragraph "a" that
28 it is in the best interest of the child and the community to
29 permit a child to be detained in a facility intended for the
30 detention of adults, the following conditions shall apply:

31 (1) The child shall not have sight or sound contact with
32 adult inmates.

33 (2) The court shall hold a hearing, not less than once
34 every thirty days, or in the case of a rural, nonmetropolitan
35 jurisdiction as determined by the United States office of

1 management and budget, not less than once every forty-five
2 days, to review whether it is still in the best interest of the
3 child and the community to permit a child to be detained in a
4 facility intended for the detention of adults.

5 (3) The child shall not be detained in a facility intended
6 for the detention of adults for more than one hundred eighty
7 days unless the court, in writing, determines there is good
8 cause for an extension or the child expressly waives this
9 limitation.

10 (4) A child detained in a county jail in a facility intended
11 for the detention of adults under this subsection shall have
12 all the rights of adult postarrest or pretrial detainees.

13 Sec. 3. EFFECTIVE DATE. This Act takes effect December 18,
14 2021.