SENATE FILE 357
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1109)

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

_____ = New Language by the Senate

A BILL FOR

An Act relating to the placement of a child in detention, and including effective date provisions.

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

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

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

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

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

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

~~(4)~~ *d.* The child is awaiting an initial hearing before the court pursuant to section 232.44.

~~*b. The restrictions contained in this subsection relating to the detention of a child in a facility under subsection 3, paragraph "c", do not apply if the court has waived its jurisdiction over the child for the alleged commission of a felony offense pursuant to section 232.45.*~~

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

7. *a.* If the juvenile court has waived its jurisdiction over the child ~~for the alleged commission of a forcible felony offense~~ pursuant to section 232.45 or 232.45A~~, and there is a serious risk that the child may commit an act which would inflict serious bodily harm on another person, the child may be held in the county jail, notwithstanding section 356.3. However, wherever possible the child shall be held in sight and~~

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

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

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

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

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

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

(6) Any other relevant factor.

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

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

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

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

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

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

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