

FEB 18 2002

JUDICIARY

HOUSE FILE 2383

BY TREMMEL

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the placement of a juvenile in detention and
2 to the jurisdiction of the juvenile court.

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

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HF-2383

1 Section 1. Section 232.8, subsection 1, paragraph c, Code
2 2001, 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
9 jurisdiction of the juvenile court and shall be prosecuted as
10 otherwise provided by law unless the court transfers
11 jurisdiction of the child to the juvenile court upon motion
12 and for good cause. A child over whom jurisdiction has not
13 been transferred to the juvenile court, and who is convicted
14 of a violation excluded from the jurisdiction of the juvenile
15 court under this paragraph, shall be sentenced pursuant to
16 section 124.401B, 902.9, or 903.1. In addition, a child over
17 whom jurisdiction has not been transferred to the juvenile
18 court, or who has previously been waived to district court
19 pursuant to section 232.45 and is convicted of a violation in
20 district court, shall have all subsequent violations excluded
21 from the jurisdiction of the juvenile court. Notwithstanding
22 any other provision of the Code to the contrary, the court may
23 accept from a child a plea of guilty, or may instruct the jury
24 on a lesser included offense to the offense excluded from the
25 jurisdiction of the juvenile court under this section, in the
26 same manner as regarding an adult. However, the juvenile
27 court shall have exclusive original jurisdiction in a
28 proceeding concerning an offense of animal torture as provided
29 in section 717B.3A alleged to have been committed by a child
30 under the age of seventeen.

31 Sec. 2. Section 232.8, subsection 4, Code 2001, is amended
32 to read as follows:

33 4. In a proceeding concerning a child who is alleged to
34 have committed a second delinquent act ~~or a second violation~~
35 ~~excluded from the jurisdiction of the juvenile court~~, the

1 court or the juvenile court shall determine whether there is
2 reason to believe that the child regularly abuses alcohol or
3 other controlled substance and may be in need of treatment.
4 If the court so determines, the court shall advise appropriate
5 juvenile authorities and refer such offenders to the juvenile
6 court for disposition pursuant to section 232.52A.

7 Sec. 3. Section 232.22, subsection 1, paragraph c, Code
8 Supplement 2001, is amended to read as follows:

9 c. There is probable cause to believe that the child has
10 violated conditions of release imposed under section 232.44,
11 subsection 5, paragraph "b", or section 232.52 or 232.54~~7~~-and
12 ~~there-is-a-substantial-probability-that-the-child-will-run~~
13 ~~away-or-otherwise-be-unavailable-for-subsequent-court~~
14 appearance.

15 Sec. 4. Section 232.45A, subsections 2 and 3, Code 2001,
16 are amended to read as follows:

17 2. Once a child ~~sixteen-years-of-age-or-older~~ has been
18 waived to district court under section 232.45 or commits an
19 offense that is excluded from the jurisdiction of the juvenile
20 court and is convicted of an-aggravated-misdemeanor-or-a
21 felony a criminal offense in the district court, all criminal
22 proceedings against the child for any ~~aggravated-misdemeanor~~
23 ~~or-felony~~ criminal offense occurring subsequent to the date of
24 the conviction of the child shall begin be held in district
25 court~~7-notwithstanding-sections-232-8-and-232-45~~. A copy of
26 the findings required by section 232.45, subsection 10, shall
27 be made a part of the record in the district court
28 proceedings.

29 3. If delinquency proceedings against a child ~~for-an~~
30 ~~aggravated-misdemeanor-or-a-felony~~ who has previously been
31 waived to and convicted of ~~an-aggravated-misdemeanor-or-a~~
32 felony a criminal offense in the district court are mistakenly
33 begun in the juvenile court, the matter shall be transferred
34 to district court upon the discovery of the prior waiver and
35 conviction~~7-notwithstanding-sections-232-8-and-232-45~~.

EXPLANATION

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This bill relates to the placement of juveniles in detention and to the jurisdiction of the juvenile court.

The bill provides that a juvenile who has been released from detention or shelter and subsequently violates the conditions of release may be placed in detention. Current law provides that a child who violates the terms and conditions of release may only be placed in detention if there is a substantial probability that the juvenile will run away or otherwise be unavailable for a future court appearance.

The bill provides that if a juvenile commits an offense that is excluded from the jurisdiction of the juvenile court under Code section 232.8 or has been waived to district court pursuant to Code section 232.45 and is convicted in district court, the juvenile shall have all subsequent criminal offenses prosecuted in district court. Current law provides that under certain circumstances a juvenile who has been convicted in district court may have some subsequent criminal offenses prosecuted in juvenile court as delinquent acts.