

**JUVENILE JUSTICE STUDY COMMITTEE**

**REPORT TO THE LEGISLATIVE COUNCIL  
AND THE MEMBERS OF THE  
FIRST SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY**

**STATE OF IOWA**

**1977**

## FINAL REPORT

### JUVENILE JUSTICE STUDY COMMITTEE

1976 Interim

#### Introduction

The work of this interim Study Committee, authorized by action of the Legislative Council on August 4, 1976, was a continuation of the efforts of prior Study Committees beginning with the Penal and Correctional Systems Study Committees of the 1973 and 1974 interims and continuing with the Juvenile Justice Study Committee of the 1975 interim which was authorized by House Concurrent Resolution 25.

The membership of the current study committee included five legislators who also served during the 1975 interim: Senator Minnette Dodarer and Representative Thomas Higgins, who again served as Chairperson and Vice Chairperson respectively, Senators Philip Hill and Kevin Kelly, and Representative Julia Gentleman. Other legislators appointed to the 1976 Committee were Senators Earl Willits and William Palmer and Representatives Diane Brandt, Joan Lipsky, and Opal Miller. Professor Josephine Gittler of the University of Iowa College of Law continued as research consultant to the Study Committee.

#### Juvenile Justice Concerns; Goals of a Juvenile Code Revision

The Study Committee recognized that the broad subject of juvenile justice contains a number of concerns which can properly be addressed by legislative action, and each of which would require some legislative attention to complete a reform of the juvenile justice system. These include consideration of the juvenile court structure, of juvenile court procedures, and of provision of services to children and youth by the state and by local communities. The Study Committee addressed concerns in each of these areas, but the majority of its efforts were concentrated on the revision of the juvenile code, currently Chapter 232 of the Iowa Code.

Considerable impetus for undertaking such a code revision was provided by a series of United States Supreme Court decisions beginning about ten years ago, which have brought about the incorporation of many constitutionally mandated adult criminal rights into delinquency proceedings in the juvenile court.

Additionally, nationwide concern about the efficacy of current juvenile court treatment of juveniles has led to federal legislation encouraging certain juvenile code reforms by predicating the availability of categorical aids upon the passage of such reforms.

Community and professional groups have also been active in promoting reforms in juvenile court procedures.

The Committee took as its starting point a bill drafted primarily by Professor Gittler following discussions during the 1975 interim, which was introduced by the Judiciary Committee during the closing days of the Second Session of the Sixty-sixth General Assembly as Senate File 1344. A copy of this bill appears in Appendix A of this report.

Broadly speaking the proposed juvenile code revision would accomplish three things:

1. Reorganize present Code provisions into a more coherent and clearly understandable format.
2. Clearly define and codify procedures which are only mentioned or implied in the present Code, and provide safeguards for the use of those procedures.
3. Make some policy changes in the ways cases are handled in the juvenile courts.

#### Study Committee Meetings and Procedures

The Study Committee met on a total of nine days and also held public hearings in Fort Dodge and near the Amanas. At its organizational meeting on August 24 the Study Committee determined to proceed by discussing Senate File 1344 section by section, and to invite interested groups and individuals to participate in these discussions.

While the primary thrust of the Committee's work dealt with refinement of Senate File 1344, it did hear comments from the following persons regarding various aspects of the juvenile justice system: Mr. Phil Smith, State Youth Coordinator; Mr. Dave White of the Iowa Crime Commission; Ms. Jane McMonigle, Department of Social Services; The Juvenile Laws Committee of the District Court Judges Association; and Mr. Michael Wald of the Stanford University Law School.

A brief description of the contributions of these persons is included in the interim report of this Study Committee.

At its final two meetings on December 10 and 15, the Committee considered and either adopted or rejected all proposed amendments to Senate File 1344. The proposed bill draft which resulted from these decisions has been submitted as a study bill to the Committee on Human Resources in the House of Representatives, and it is anticipated that with some changes it will be filed as an individual bill in the Senate.

Review of Proposed Juvenile Code Revision Bill Draft

Division I contains the definitions as well as the rules of constructions for the proposed act. Many more definitions appear here than in Chapter 232, for subjects such as "parent," "custodian," "peace officer," "sexual abuse," "complaint," "petition," "intake," "secure facility," etc. Of particular significance is the definition for the term "child in need of assistance," which includes only children who could be considered neglected or dependent.

Division II details proceedings in cases of alleged delinquency. It provides an unwaivable right to counsel from the point of initial contact with the juvenile court system, which is called "intake," through any remaining proceedings in the court system. It outlines the rules and prescribed procedures for taking a child into custody (called "arrest" in the adult system), plainly differentiates between detention (locked) care and shelter (nonsecure) care and sets out criteria for determining whether, where, and how long the child may be held pending further proceedings, specifies intake procedures, and specifies rules for informal adjustment, for the filing of petitions alleging delinquency, and general rules for all types of hearings. It codifies plea agreements, guidelines for consent decrees (which are comparable to deferred judgments in criminal court), and the rules for predisposition (presentence) investigations and for the ordering of physical and mental examinations of the child. In addition, Division II sets out separately the procedures for detention or shelter care hearings, for adjudication (trial) hearings, hearings on waiver of jurisdiction to the criminal court, and hearings to impose or alter a disposition. It provides that a juvenile alleged delinquent may demand a jury trial, it imposes a policy of choice of the "least drastic alternative" upon disposition decisions, provides that a juvenile could not be held in a "secure" (locked) facility for a longer period of time than could an adult who committed the same offense, and retains limited jurisdiction of the court over juveniles who are committed to the Department of Social Services for placement in a state institution.

Division III is based upon the premise that a child should be removed from the home only as a last resort. It contains the procedures to be observed when a child is alleged to be a CINA and provides detailed instructions for removal of such a child from the home, sets out that parents and child are entitled to separate counsel and that the child must have counsel, provides for separate temporary removal, adjudication, and disposition hearings, and for suspended judgments similar in operation to the consent decree of Division II. It details the procedures for transferring legal custody of the child and for subsequently altering that transfer.

Division IV controls the final outcome of some of the cases brought to court on CINA petitions--the termination of the parent-child relationship. It lists specific grounds for such termination, clearly spells out the rights of parties involved, and

outlines permissible dispositions in a termination action. This procedure is designed for situations of involuntary termination, and is complementary to the voluntary termination for adoption procedure which was recently passed by the legislature.

Division V presents a new type of jurisdiction in which families in need of assistance (FINA) may submit voluntarily to the court for an informal hearing during which the court will determine if there is a breakdown in the familial relationship, whether other feasible avenues of assistance have been exhausted, and whether the court has at its disposal appropriate services for the family. Separation of the child from the family could occur only with the consent of the child. This jurisdiction would encompass situations in which the child has committed a status offense, that is, an act such as truancy or running away which would not be an offense if committed by an adult. Such acts would no longer be proper subjects of either a delinquency or a CINA proceeding.

Division VI deals with appeal and is essentially synonymous with the current code provision on that subject. Division VII brings all the current Code sections dealing with expenses and costs into the same division but leaves their contents essentially unchanged.

Division VIII deals with records of juvenile cases, and proceeds from the premise that since the goal of the juvenile justice system is to rehabilitate children, the best way to handle records about them is to keep such records from following and stigmatizing the juvenile in adulthood. It provides that juvenile court records and law enforcement records concerning juveniles shall be confidential, that rules will be placed on fingerprinting and photographing juveniles, and that a juvenile's records shall be sealed on application after two years if no further adjudications of delinquency or convictions are found. Criminal penalties are provided if persons release juveniles' records without authority to do so.

Sections 76 through 93 are coordinating amendments, a number of which harmonize termination proceedings of Chapter 600A of the Code with the termination proceedings in Division IV of the bill draft. An effective date of January 1, 1978 is provided, and the Code Editor is directed to incorporate child abuse reporting provisions and the interstate juvenile compact into the juvenile code.

#### Other Study Committee Recommendations

1. Additional Study Committee concerns have been drafted as individual bills for introduction in the 1977 Session of the Legislature. One such proposal is legislation which would provide that simple misdemeanors not within the jurisdiction of the juvenile court, such as traffic offenses under Chapter 321 of the Code, should be returned to the juvenile court for disposition

after a finding of guilt. The need for such legislation arises from the fact that the only significant numbers of cases in which juveniles are punished by imprisonment in the county jail arise out of those Code provisions which preempt the jurisdiction of the court.

2. A second proposal drafted as an individual bill is a recommendation that the formula by which district court judges are assigned be changed to include juvenile court cases in the case load count. The Committee feels that without such recognition, case loads in the judicial districts will be inequitable and juvenile cases will be prevented from assuming their proper importance alongside other types of cases on the court docket.