



HUMAN RIGHTS *for* KIDS

Iowa State Ratings Report

Human Rights for Kids (HRFK) annual state ratings process tracks the presence or absence of 12 categories of state statutes that are critical to protecting the human rights of children in the criminal justice system. It is important to note that these 12 categories are not exhaustive of all the important legislation needed to safeguard children's human rights. Furthermore, the ratings do not assess the effectiveness or implementation of these laws in the state. The purpose of the annual state ratings process is to document policies enacted by state legislatures, motivate legislators and policy advocates, and bring attention to the need to prioritize children in criminal justice reform and human rights advocacy. For each category, we track whether a state has a statute consistent with the described policy.

TOTAL POINTS:	2.5 out of 12
TIER RATING:	4

1. Due Process Protections at Point of Entry for Kids

Partial Credit: .5/1

Pursuant to §232.11, children less than 16 years of age cannot waive their right to counsel during custodial interrogations without the written consent of their parents. Because these protections do not apply to all children, Iowa receives partial credit.

§232.11 Right to assistance of counsel.

1. A child shall have the right to be represented by counsel at the following stages of the proceedings within the jurisdiction of the juvenile court under division II or division VIII:

- a. From the time the child is taken into custody for any alleged delinquent act that constitutes a serious or aggravated misdemeanor or felony under the Iowa criminal code, and during any questioning thereafter by a peace officer or probation officer.
- b. A detention or shelter care hearing as required by section 232.44.
- c. A waiver hearing as required by section 232.45.
- d. An adjudicatory hearing required by section 232.47.
- e. A dispositional hearing as required by section 232.50.
- f. Hearings to review and modify a dispositional order as required by section 232.54.
- g. A hearing on a confidentiality order under section 232.149A or a public records order under section 232.149B.

2. The child's right to be represented by counsel under subsection 1, paragraphs "b" to "f" of this section shall not be waived by a child of any age. The child's right to be represented by counsel under subsection 1, paragraph "a" shall not be waived by a child less than sixteen years of age without the written consent of the child's parent, guardian, or custodian. The waiver by a child who is at least sixteen years of age is valid only if a good faith effort has been made to notify the child's parent, guardian, or custodian that the child has been taken into custody and of the alleged delinquent act for which the child has been taken into custody, the location of the child, and the right of the parent, guardian, or custodian to visit and confer with the child.

2. Set a Minimum Age of at Least 10 for Juvenile Court

No Credit: 0/1

Pursuant to §232.2 there is no minimum age for when a child may be adjudicated delinquent in juvenile court. See Category 3 for statutory provisions.

3. Set a Maximum Age of at Least 17 for Juvenile Court

Full Credit: 1/1

Pursuant to §232.2, the jurisdiction of the juvenile court for delinquent acts extends to anyone under the age of 18.

§232.2. Definitions

5. "Child" means a person under eighteen years of age

12. "Delinquent act" means: a. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult except any offense which by law is exempted from the jurisdiction of this chapter. b. The violation of a

federal law or a law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court. c. The violation of section 123.47 which is committed by a child. d. The violation of sections 716.7 and 716.8, which is committed by a child.

§232.8 Jurisdiction.

1. a. The juvenile court has exclusive original jurisdiction in proceedings concerning a child who is alleged to have committed a delinquent act unless otherwise provided by law, and has exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, and who has been transferred to the jurisdiction of the juvenile court pursuant to an order under section 803.5.

b. Violations by a child of provisions of chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

4. Ban Prosecuting Kids Under 14 as Adults AND Require a Child Status Hearings for All Kids 14+ Before Proceedings in Adult Court

No Credit: 0/1

Pursuant to §232.8, children 16 years of age or older charged with specified offenses are excluded from the jurisdiction of the juvenile court, and pursuant to §232.45, a child as young as 10 years old may be transferred from juvenile court.

§232.8 Jurisdiction

c. Violations by a child, aged sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph “e” or “f”, or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the district court transfers jurisdiction of the child to the juvenile court upon motion and for good cause pursuant to section 803.6.

Notwithstanding any other provision of the Code to the contrary, the district court may accept from a child in district court a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this paragraph, in the same manner as regarding an adult. The judgment and sentence of a child in district court shall be as provided in section 901.5. However, the juvenile court shall have exclusive original jurisdiction in a

proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

§803.6 Transfer of jurisdiction — juvenile.

1. The court, in the case of a juvenile who is alleged to have committed a criminal offense listed in section 232.8, subsection 1, paragraph “c”, may direct a juvenile court officer to provide a report regarding whether the child should be transferred to juvenile court for adjudication and disposition as a juvenile.
2. If the court believes that transfer may be appropriate the court shall hold a hearing on whether the child should be transferred. A notice of the time and place of the transfer hearing shall be given to all parties to the case. Prior to the hearing, the court shall provide the defendant’s counsel and the county attorney with access to the report provided by the juvenile court officer and to all written material to be considered by the court.
3. After the hearing, the court may transfer jurisdiction to the juvenile court if the court determines that waiver to the criminal court would be inappropriate under the criteria set forth in section 232.45, subsection 6, paragraph “c”, and section 232.45, subsection 8.

§232.45 Waiver hearing and waiver of jurisdiction.

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense or for the purpose of prosecution of the child as an adult or a youthful offender. If the county attorney and the child agree, a motion for waiver for the purpose of being prosecuted as a youthful offender may be heard by the district court as part of the proceedings under section 907.3A, or by the juvenile court as provided in this section. If the motion for waiver for the purpose of being prosecuted as a youthful offender is made as a result of a conditional agreement between the county attorney and the child, the conditions of the agreement shall be disclosed to the court in the same manner as provided in rules of criminal procedure 2.8 and 2.10.
6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense for the purpose of prosecution of the child as an adult if all of the following apply:
 - a. The child is fourteen years of age or older.
 - b. The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute the public offense.
7. a. At the conclusion of the waiver hearing and after considering the best interests of the child and the best interests of the community the court may, in order that the child may be prosecuted as a youthful offender, waive its jurisdiction over the child if all of the following apply:

(1) The child is twelve through fifteen years of age or the child is ten or eleven years of age and has been charged with a public offense that would be classified as a class “A” felony if committed by an adult.

(2) The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense under section 232.8, subsection 1, paragraph “c”, notwithstanding the application of that paragraph to children aged sixteen or older.

(3) The court determines that the state has established that there are not reasonable prospects for rehabilitating the child, prior to the child’s eighteenth birthday, if the juvenile court retains jurisdiction over the child and the child enters into a plea agreement, is a party to a consent decree, or is adjudicated to have committed the delinquent act.

5. Ban Mandatory Minimum Sentencing for Kids

No Credit: 0/1

Although the Iowa Supreme Court struck down mandatory minimum sentencing for kids in *State v. Lyle*, the legislature has not adopted legislation codifying this decision. Further, statutory provisions permitting judges to suspend mandatory minimum sentences do not include class “A” felonies. As a result, Iowa receives no credit.

§901.5 Pronouncing judgment and sentence.

After receiving and examining all pertinent information, including the presentence investigation report and victim impact statements, if any, the court shall consider the following sentencing options. The court shall determine which of them is authorized by law for the offense, and of the authorized sentences, which of them or which combination of them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others. At the time fixed by the court for pronouncement of judgment and sentence, the court shall act accordingly:

13. Notwithstanding any provision in section 907.3 or any other provision of law prescribing a mandatory minimum sentence for the offense, if the defendant, other than a child being prosecuted as a youthful offender, is guilty of a public offense other than a class “A” felony, and was under the age of eighteen at the time the offense was committed, the court may suspend the sentence in whole or in part, including any mandatory minimum sentence, or with the consent of the defendant, defer judgment or sentence, and place the defendant on probation upon such conditions as the court may require.

§903.1 Maximum sentence for misdemeanants

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

6. Ban Felony-Murder Rule for Kids

No Credit: 0/1

Pursuant to §707.2, a child may be convicted under the felony murder rule.

§707.2 Murder in the first degree.

1. A person commits murder in the first degree when the person commits murder under any of the following circumstances:
- b. The person kills another person while participating in a forcible felony.

7. Ban Life Without Parole Sentences for Kids

No Credit: 0/1

Although the Iowa Supreme Court struck down life without parole sentences for children, the legislature has not adopted legislation codifying this decision. Under existing statutes, life without parole is still an authorized sentence for children, despite it violating the Iowa State Constitution. As a result, Iowa receives no credit.

§902.1 Class “A” felony.

2. a. Notwithstanding subsection 1, a defendant convicted of murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one of the following sentences:
 - (1) Commitment to the director of the department of corrections for the rest of the defendant’s life with no possibility of parole unless the governor commutes the sentence to a term of years.
 - (2) Commitment to the custody of the director of the department of corrections for the rest of the defendant’s life with the possibility of parole after serving a minimum term of confinement as determined by the court.
 - (3) Commitment to the custody of the director of the department of corrections for the rest of the defendant’s life with the possibility of parole.
3. a. Notwithstanding subsections 1 and 2, a defendant convicted of a class “A” felony, other than murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one of the following sentences:

(1) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole after serving a minimum term of confinement as determined by the court.

(2) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole.

8. Release Safety Valve for Kids Serving Lengthy Prison Sentences

No Credit: 0/1

There is no statutory provision allowing judges or the parole board to review the sentences of every child convicted in criminal court after a reasonable period of incarceration.

9. Ban Solitary Confinement for Kids

No Credit: 0/1

Pursuant to §356.14, children detained in jail can be held in solitary confinement; additionally, there are no statutory provisions banning solitary confinement for children in juvenile facilities or adult prisons.

§356.14 Refractory prisoners.

If any person confined in a jail is refractory or disorderly or willfully destroys or injures any part of the jail or of its contents, the sheriff may secure the person or cause the person to be kept in solitary confinement not more than ten days for any one offense, during which time the person may be fed minimum diet requirements as established by the Iowa department of corrections unless other food is necessary for the preservation of the person's health.

10. Ban Incarcerating Kids with Adults

No Credit: 0/1

Pursuant to §232.22 and §356.3, children may be held in adult correctional facilities.

§232.22 Placement in detention.

3. Except as provided in subsection 7, a child may be placed in detention as provided in this section in one of the following facilities only:

a. A juvenile detention home. b. Any other suitable place designated by the court other than a facility under paragraph "c".

c. (1) A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act which if

committed by an adult would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following apply:

- (a) The child is at least fourteen years of age.
- (b) The child has shown by the child's conduct, habits, or condition that the child constitutes an immediate and serious danger to another or to the property of another, and a facility or place enumerated in paragraph "a" or "b" is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility.
- (c) The facility has an adequate staff to supervise and monitor the child's activities at all times.
- (d) The child is confined in a room entirely separated from detained adults, is confined in a manner which prohibits communication with detained adults, and is permitted to use common areas of the facility only when no contact with detained adults is possible.

5. 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:

- a. The facility serves a geographic area outside a standard metropolitan statistical area as determined by the United States office of management and budget.
- b. The court determines that an acceptable alternative placement does not exist pursuant to criteria developed by the department of human services.
- 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.
- d. The child is awaiting an initial hearing before the court pursuant to section 232.44.

7. a. If the juvenile court has waived its jurisdiction over the child pursuant to section 232.45 or 232.45A 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.

§356.3 Minors separately confined.

1. Any sheriff, city marshal, or chief of police, having in the officer's care or custody any prisoner under the age of eighteen years, shall keep such prisoner separate and apart, and prevent communication by such prisoner with prisoners above that age, while such prisoners are not under the personal supervision of such officer, if suitable buildings or jails are provided for that purpose, unless such prisoner is likely to or does exercise an immoral influence over other minors with whom the prisoner may be imprisoned.

2. A person under the age of eighteen years prosecuted under chapter 232 and not waived to criminal court shall be confined in a jail only under the conditions provided in chapter 232.

11. Ban Mandatory Post-Release Lifetime Supervision

Full Credit: 1/1

Pursuant to §906.15, formerly incarcerated children may be discharged from parole at the discretion of the parole board.

§906.15 Discharge from parole.

1. Unless sooner discharged, a person released on parole shall be discharged when the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement. Discharge from parole may be granted prior to such time, when an early discharge is appropriate. The board shall periodically review all paroles, and when the board determines that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the board shall discharge the person from parole. A parole officer shall periodically review all paroles assigned to the parole officer, and when the parole officer determines that any person assigned to the officer is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the officer may discharge the person from parole after notification and approval of the district director and notification of the board of parole. In any event, discharge from parole shall terminate the person's sentence. If a person has been sentenced to a special sentence under section 903B.1 or 903B.2, the person may be discharged early from the sentence in the same manner as any other person on parole. However, a person convicted of a violation of section 709.3, 709.4, or 709.8 committed on or with a child, or a person serving a sentence under section 902.12, shall not be discharged from parole until the person's term of parole equals the

period of imprisonment specified in the person's sentence, less all time served in confinement.

12. Voting Rights Restoration

No Credit: 0/1

Pursuant to Art. II, §5 of the Iowa Constitution, formerly incarcerated children convicted of any infamous crime are permanently disenfranchised.

ART. II, §5, CONSTITUTION OF THE STATE OF IOWA

Sec. 5. Disqualified persons.

A person adjudged mentally incompetent to vote or a person convicted of any infamous crime shall not be entitled to the privilege of an elector.