

1 SEC. 5. Chapter seven hundred eighty-five (785), Code 1962, is
 2 hereby amended by adding after section seven hundred eighty-five
 3 point fifteen (785.15) the following section:

4 "After conviction, but prior to pronouncement of sentence, if the
 5 indictment alleges one or more prior convictions which by the Code,
 6 subject the offender to an increased sentence, he shall have the oppor-
 7 tunity in open court to affirm or deny that he is identical with the
 8 person previously convicted. If he denies the identity, sentence shall
 9 be postponed for such time as to permit a trial before a jury on the
 10 sole issue of the offender's identity with the person previously con-
 11 victed.

12 The court may in its discretion reconvene the jury which heard the
 13 current offense or dismiss that jury and submit the issue of identity
 14 to another jury to be later impaneled. If the offender is found by the
 15 jury to be the person previously convicted, or if he acknowledges that
 16 he is such person, he shall be sentenced as prescribed in the Code."

1 SEC. 6. Section seven hundred eighty point five (780.5), subsec-
 2 tion one (1), Code 1962, is hereby amended by adding in line two (2)
 3 after the word "indictment" the following:

4 "or, the supplemental indictment as required under the provisions
 5 of the Code."

1 SEC. 7. Section seven hundred sixty-two point three (762.3), Code
 2 1962, is hereby amended by adding a new subsection four (4) as fol-
 3 lows:

4 "4. The provisions of section three (3) of this Act shall be appli-
 5 cable to the prosecution before a justice of the peace of cases within
 6 its jurisdiction."

1 SEC. 8. Section six hundred three point eleven (603.11), Code
 2 1962, is hereby amended by striking after the word "prescribe" in line
 3 four (4) the period (.) and inserting in lieu thereof the words:

4 "and the provisions of section three (3) of this Act shall be appli-
 5 cable to all such actions."

Approved May 24, 1965.

CHAPTER 445

CRIMINAL DETAINERS COMPACT

S. F. 445

AN ACT relating to criminal procedure; to adopt the agreement on detainers and provide for implementation thereof.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. The agreement on detainers is hereby enacted into
 2 law and entered into by this state with all other jurisdictions legally
 3 joining therein in the form substantially as follows:

4 The contracting states solemnly agree that:

5

ARTICLE I

6 The party states find that charges outstanding against a prisoner,
7 detainees based on untried indictments, informations or complaints,
8 and difficulties in securing speedy trial of persons already incarcerated
9 in other jurisdictions, produce uncertainties which obstruct pro-
10 grams of prisoner treatment and rehabilitation. Accordingly, it is
11 the policy of the party states and the purpose of this agreement to
12 encourage the expeditious and orderly disposition of such charges
13 and determination of the proper status of any and all detainees based
14 on untried indictments, informations or complaints. The party states
15 also find that proceedings with reference to such charges and de-
16 tainers, when emanating from another jurisdiction, cannot prop-
17 erly be had in the absence of cooperative procedures. It is the further
18 purpose of this agreement to provide such cooperative procedures.

19

ARTICLE II

20 As used in this agreement:

21 (a) "State" shall mean a state of the United States; the United
22 States of America; a territory or possession of the United States;
23 the District of Columbia; the Commonwealth of Puerto Rico.

24 (b) "Sending state" shall mean a state in which a prisoner is in-
25 carcerated at the time that he initiates a request for final disposition
26 pursuant to Article III hereof or at the time that a request for cus-
27 tody or availability is initiated pursuant to Article IV hereof.

28 (c) "Receiving state" shall mean the state in which trial is to be
29 had on an indictment, information or complaint pursuant to Article
30 III or Article IV hereof.

31

ARTICLE III

32 (a) Whenever a person has entered upon a term of imprisonment
33 in a penal or correctional institution of a party state, and whenever
34 during the continuance of the term of imprisonment there is pending
35 in any other party state any untried indictment, information or com-
36 plaint on the basis of which a detainer has been lodged against the
37 prisoner, he shall be brought to trial within one hundred eighty days
38 after he shall have caused to be delivered to the prosecuting officer
39 and the appropriate court of the prosecuting officer's jurisdiction
40 written notice of the place of his imprisonment and his request for a
41 final disposition to be made of the indictment, information or com-
42 plaint: provided that for good cause shown in open court, the pris-
43 oner or his counsel being present, the court having jurisdiction of
44 the matter may grant any necessary or reasonable continuance. The
45 request of the prisoner shall be accompanied by a certificate of the
46 appropriate official having custody of the prisoner, stating the term
47 of commitment under which the prisoner is being held, the time
48 already served, the time remaining to be served on the sentence, the
49 amount of good time earned, the time of parole eligibility of the
50 prisoner, and any decisions of the state parole agency relating to the
51 prisoner.

52 (b) The written notice and request for final disposition referred
53 to in paragraph (a) hereof shall be given or sent by the prisoner to

54 the warden, commissioner of corrections or other official having cus-
55 tody of him, who shall promptly forward it together with the certifi-
56 cate to the appropriate prosecuting official and court by registered or
57 certified mail, return receipt requested.

58 (c) The warden, commissioner of corrections or other official hav-
59 ing custody of the prisoner shall promptly inform him of the source
60 and contents of any detainer lodged against him and shall also inform
61 him of his right to make a request for final disposition of the indict-
62 ment, information or complaint on which the detainer is based.

63 (d) Any request for final disposition made by a prisoner pursuant
64 to paragraph (a) hereof shall operate as a request for final disposi-
65 tion of all untried indictments, informations or complaints on the
66 basis of which detainees have been lodged against the prisoner from
67 the state to whose prosecuting official the request for final disposition
68 is specifically directed. The warden, commissioner of corrections or
69 other official having custody of the prisoner shall forthwith notify all
70 appropriate prosecuting officers and courts in the several jurisdic-
71 tions within the state to which the prisoner's request for final dis-
72 position is being sent of the proceeding being initiated by the pris-
73 oner. Any notification sent pursuant to this paragraph shall be ac-
74 companied by copies of the prisoner's written notice, request, and the
75 certificate. If trial is not had on any indictment, information or
76 complaint contemplated hereby prior to the return of the prisoner
77 to the original place of imprisonment, such indictment, information
78 or complaint shall not be of any further force or effect, and the court
79 shall enter an order dismissing the same with prejudice.

80 (e) Any request for final disposition made by a prisoner pursuant
81 to paragraph (a) hereof shall also be deemed to be a waiver of extra-
82 dition with respect to any charge or proceeding contemplated thereby
83 or included therein by reason of paragraph (d) hereof, and a waiver
84 of extradition to the receiving state to serve any sentence there
85 imposed upon him, after completion of his term of imprisonment in
86 the sending state. The request for final disposition shall also con-
87 stitute a consent by the prisoner to the production of his body in any
88 court where his presence may be required in order to effectuate the
89 purposes of this agreement and a further consent voluntarily to be
90 returned to the original place of imprisonment in accordance with
91 the provisions of this agreement. Nothing in this paragraph shall
92 prevent the imposition of a concurrent sentence if otherwise per-
93 mitted by law.

94 (f) Escape from custody by the prisoner subsequent to his execu-
95 tion of the request for final disposition referred to in paragraph (a)
96 hereof shall void the request.

97

ARTICLE IV

98 (a) The appropriate officer of the jurisdiction in which an untried
99 indictment, information or complaint is pending shall be entitled to
100 have a prisoner against whom he has lodged a detainer and who is
101 serving a term of imprisonment in any party state made available in
102 accordance with Article V (a) hereof upon presentation of a written
103 request for temporary custody or availability to the appropriate
104 authorities of the state in which the prisoner is incarcerated: pro-

105 vided that the court having jurisdiction of such indictment, informa-
106 tion or complaint shall have duly approved, recorded and transmitted
107 the request: and provided further that there shall be a period of
108 thirty days after receipt by the appropriate authorities before the
109 request be honored, within which period the governor of the sending
110 state may disapprove the request for temporary custody or avail-
111 ability, either upon his own motion or upon motion of the prisoner.

112 (b) Upon receipt of the officer's written request as provided in
113 paragraph (a) hereof, the appropriate authorities having the pris-
114 oner in custody shall furnish the officer with a certificate stating the
115 term of commitment under which the prisoner is being held, the time
116 already served, the time remaining to be served on the sentence, the
117 amount of good time earned, the time of parole eligibility of the pris-
118 oner, and any decisions of the state parole agency relating to the pris-
119 oner. Said authorities simultaneously shall furnish all other officers
120 and appropriate courts in the receiving state who have lodged det-
121ainers against the prisoner with similar certificates and with notices
122 informing them of the request for custody or availability and of the
123 reasons therefor.

124 (c) In respect of any proceeding made possible by this Article,
125 trial shall be commenced within one hundred twenty days of the ar-
126 rival of the prisoner in the receiving state, but for good cause shown
127 in open court, the prisoner or his counsel being present, the court
128 having jurisdiction of the matter may grant any necessary or rea-
129 sonable continuance.

130 (d) Nothing contained in this Article shall be construed to deprive
131 any prisoner of any right which he may have to contest the legality
132 of his delivery as provided in paragraph (a) hereof, but such deliv-
133 ery may not be opposed or denied on the ground that the executive
134 authority of the sending state has not affirmatively consented to or
135 ordered such delivery.

136 (e) If trial is not had on any indictment, information or complaint
137 contemplated hereby prior to the prisoner's being returned to the
138 original place of imprisonment pursuant to Article V (e) hereof,
139 such indictment, information or complaint shall not be of any further
140 force or effect, and the court shall enter an order dismissing the same
141 with prejudice.

142

ARTICLE V

143 (a) In response to a request made under Article III or Article IV
144 hereof, the appropriate authority in a sending state shall offer to
145 deliver temporary custody of such prisoner to the appropriate au-
146 thority in the state where such indictment, information or complaint
147 is pending against such person in order that speedy and efficient
148 prosecution may be had. If the request for final disposition is made
149 by the prisoner, the offer of temporary custody shall accompany the
150 written notice provided for in Article III of this agreement. In the
151 case of a federal prisoner, the appropriate authority in the receiving
152 state shall be entitled to temporary custody as provided by this agree-
153 ment or to the prisoner's presence in federal custody at the place for
154 trial, whichever custodial arrangement may be approved by the cus-
155 todian.

156 (b) The officer or other representative of a state accepting an offer
157 of temporary custody shall present the following upon demand:

158 (1) Proper identification and evidence of his authority to act for
159 the state into whose temporary custody the prisoner is to be given.

160 (2) A duly certified copy of the indictment, information or com-
161 plaint on the basis of which the detainer has been lodged and on the
162 basis of which the request for temporary custody of the prisoner has
163 been made.

164 (c) If the appropriate authority shall refuse or fail to accept
165 temporary custody of said person, or in the event that an action on
166 the indictment, information or complaint on the basis of which the
167 detainer has been lodged is not brought to trial within the period
168 provided in Article III or Article IV hereof, the appropriate court
169 of the jurisdiction where the indictment, information or complaint
170 has been pending shall enter an order dismissing the same with
171 prejudice, and any detainer based thereon shall cease to be of any
172 force or effect.

173 (d) The temporary custody referred to in this agreement shall be
174 only for the purpose of permitting prosecution on the charge or
175 charges contained in one or more untried indictments, informations
176 or complaints which form the basis of the detainer or detainers or
177 for prosecution on any other charge or charges arising out of the
178 same transaction. Except for his attendance at court and while being
179 transported to or from any place at which his presence may be re-
180 quired, the prisoner shall be held in a suitable jail or other facility
181 regularly used for persons awaiting prosecution.

182 (e) At the earliest practicable time consonant with the purposes
183 of this agreement, the prisoner shall be returned to the sending state.

184 (f) During the continuance of temporary custody or while the
185 prisoner is otherwise being made available for trial as required by
186 this agreement, time being served on the sentence shall continue to
187 run but good time shall be earned by the prisoner only if, and to the
188 extent that, the law and practice of the jurisdiction which imposed
189 the sentence may allow.

190 (g) For all purposes other than that for which temporary custody
191 as provided in this agreement is exercised, the prisoner shall be
192 deemed to remain in the custody of and subject to the jurisdiction of
193 the sending state and any escape from temporary custody may be
194 dealt with in the same manner as an escape from the original place
195 of imprisonment or in any other manner permitted by law.

196 (h) From the time that a party state receives custody of a pris-
197 oner pursuant to this agreement until such prisoner is returned to
198 the territory and custody of the sending state, the state in which the
199 one or more untried indictments, informations or complaints are
200 pending or in which trial is being had shall be responsible for the
201 prisoner and shall also pay all costs of transporting, caring for, keep-
202 ing and returning the prisoner. The provisions of this paragraph
203 shall govern unless the states concerned shall have entered into a
204 supplementary agreement providing for a different allocation of
205 costs and responsibilities as between or among themselves. Nothing
206 herein contained shall be construed to alter or affect any internal
207 relationship among the departments, agencies and officers of and in

208 the government of a party state, or between a party state and its
209 subdivisions, as to the payment of costs, or responsibilities therefor.

210 ARTICLE VI

211 (a) In determining the duration and expiration dates of the time
212 periods provided in Articles III and IV of this agreement, the run-
213 ning of said time periods shall be tolled whenever and for as long as
214 the prisoner is unable to stand trial, as determined by the court hav-
215 ing jurisdiction of the matter.

216 (b) No provision of this agreement, and no remedy made available
217 by this agreement, shall apply to any person who is adjudged to be
218 mentally ill.

219 ARTICLE VII

220 Each state party to this agreement shall designate an officer who,
221 acting jointly with like officers of other party states, shall promul-
222 gate rules and regulations to carry out more effectively the terms and
223 provisions of this agreement, and who shall provide, within and with-
224 out the state, information necessary to the effective operation of this
225 agreement.

226 ARTICLE VIII

227 This agreement shall enter into full force and effect as to a party
228 state when such state has enacted the same into law. A state party
229 to this agreement may withdraw herefrom by enacting a statute
230 repealing the same. However, the withdrawal of any state shall not
231 affect the status of any proceedings already initiated by inmates or
232 by state officers at the time such withdrawal takes effect, nor shall it
233 affect their rights in respect thereof.

234 ARTICLE IX

235 This agreement shall be liberally construed so as to effectuate its
236 purposes. The provisions of this agreement shall be severable and if
237 any phrase, clause, sentence or provision of this agreement is de-
238 clared to be contrary to the constitution of any party state or of the
239 United States or the applicability thereof to any government, agency,
240 person or circumstance is held invalid, the validity of the remainder
241 of this agreement and the applicability thereof to any government,
242 agency, person or circumstance shall not be affected thereby. If this
243 agreement shall be held contrary to the constitution of any state party
244 hereto, the agreement shall remain in full force and effect as to the
245 remaining states and in full force and effect as to the state affected
246 as to all severable matters.

1 SEC. 2. The phrase "appropriate court" as used in the agreement
2 on detainers shall, with reference to the courts of this state, mean
3 any court with criminal jurisdiction in the matter involved.

1 SEC. 3. All courts, departments, agencies, officers, and employees
2 of this state and its political subdivisions are hereby directed to en-
3 force the agreement on detainers and to cooperate with one another

4 and with other party states in enforcing the agreement and effectuating its purpose.

1 SEC. 4. Nothing in this Act or in the agreement on detainers shall
2 be construed to require the application of chapter seven hundred
3 forty-seven (747) of the Code to any person on account of any conviction had in a proceeding brought to final disposition by reason of
4 the use of this agreement.
5

1 SEC. 5. Escape from custody while in another state, pursuant to
2 this agreement on detainers shall constitute an offense against the
3 laws of this state to the same extent and degree as an escape from
4 the institution in which the prisoner was confined immediately prior
5 to having been sent to another state pursuant to the provisions of the
6 agreement on detainers and shall be punishable in the same manner
7 as an escape from said institution.

1 SEC. 6. It shall be lawful and mandatory upon the warden or
2 other official in charge of a penal or correctional institution in this
3 state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.
4

1 SEC. 7. Pursuant to the agreement on detainers, the governor is
2 hereby authorized to designate an officer or alternate who shall be
3 the central administrator of and information agent for the agreement
4 on detainers and who, acting jointly with like officers of other party
5 states, shall have power to formulate rules and regulations to carry
6 out more effectively the terms of the agreement, and shall serve subject to the pleasure of the governor.
7

1 SEC. 8. Copies of this Act shall, upon its approval, be transmitted
2 to the governor of each state, the attorney general, and the administrator of general services of the United States, and the council of
3 state governments.
4

Approved May 24, 1965.

CHAPTER 446

BAIL

H. F. 617

AN ACT relating to bail.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section seven hundred sixty-three point three (763.3),
2 Code 1962, is hereby amended by adding thereto the following:
3 "Except as provided in section seven hundred sixty-three point two
4 (763.2) of the Code, bail initially given shall remain valid until final
5 disposition of the offense. If the amount of bail is deemed insufficient
6 by the court before whom the action is pending, the court may order