

the Judiciary 2/1

Senate File 2133

Judiciary and Law Enforcement: Doyle, Chair; Garrison, Newhard, Clark of Cerro Gordo and Lipsky.

FILED FEB 20 1978

SENATE FILE 2133

By COMMITTEE ON JUDICIARY

Approved 2/16 (p. 363)

Passed Senate, Date 2-23-78 (p. 386) Passed House, Date 5-11-78 (p. 2195)

Vote: Ayes 46 Nays 2 Vote: Ayes 75 Nays 20

Approved 6-5-78

Proposed Senate for House amendment 5846

5-11-78 (p. 1460)

40-0

A BILL FOR

-1 An Act to provide workers' compensation for state inmates.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section twenty-five A point fourteen (25A.14),
2 Code 1977, is amended by adding the following new subsection:

3 NEW SUBSECTION. Any claim by an inmate as defined in
4 section five (5) of this Act.

5 Sec. 2. Section eighty-five point thirty-six (85.36),
6 subsection ten (10), Code 1977, is amended by adding the
7 following new lettered paragraph:

8 NEW LETTERED PARAGRAPH. If the employee was an inmate
9 as defined in section five (5) of this Act, the inmate's
10 actual earnings shall be disregarded, and the weekly
11 compensation rate shall be as set forth in section five (5)
12 of this Act.

13 Sec. 3. Section eighty-five point forty-five (85.45),
14 Code 1977, is amended by adding the following new unnumbered
15 paragraph:

16 NEW UNNUMBERED PARAGRAPH. Future payments of compensation
17 shall not be commuted to a present worth lump sum payment
18 when the employee is an inmate as set forth in section five
19 (5) of this Act.

20 Sec. 4. Section eighty-five point sixty-one (85.61),
21 subsection two (2), Code 1977, is amended by adding the
22 following new paragraph:

23 NEW PARAGRAPH. "Workman" or "employee" shall include an
24 inmate as defined in section five (5) of this Act.

25 Sec. 5. Chapter eighty-five (85), Code 1977, is amended
26 by adding the following new section:

27 NEW SECTION. For the purposes of this section, the term
28 "inmate" includes a person confined in a reformatory, state
29 penitentiary, release center, or other state penal or
30 correctional institution while that person works in connection
31 with the maintenance of the institution or in an industry
32 maintained therein or while on detail to perform services
33 on a public works project.

34 If an inmate is permanently incapacitated by injury in
35 the performance of his or her work in connection with the

1 maintenance of the institution or in an industry maintained
2 therein or while on detail to perform services on a public
3 works project, that inmate shall be awarded only such benefits
4 as are provided in section eighty-five point twenty-seven
5 (85.27) and section eighty-five point thirty-four (85.34),
6 subsections two (2) and three (3) of the Code. The weekly
7 rate for such permanent disability shall be equal to sixty-
8 six and two-thirds percent of the state average weekly wage
9 paid employees as determined by the Iowa department of job
10 service under the provisions of section ninety-six point three
11 (96.3) of the Code and in effect at the time of the injury.

12 Weekly compensation benefits under this section may be
13 awarded prior to the inmate's release from the institution,
14 but payment of benefits to an inmate shall commence as of
15 the time of the inmate's release from the institution either
16 upon parole or final discharge. However, if the industrial
17 commissioner finds that dependents of the inmate will require
18 welfare aid if weekly benefit payments are not made, he or
19 she may order the weekly compensation to be paid to a
20 responsible person for the use of dependents.

21 If an inmate is receiving benefits under the provisions
22 of this section and is recommitted to an institution covered
23 by this section, the benefits shall immediately cease.
24 However, if the industrial commissioner finds that dependents
25 of the inmate will require welfare aid as a result of
26 terminating the compensation, he or she may order weekly
27 compensation to be paid to a responsible person for the use
28 of dependents. If benefits cease because of the inmate's
29 recommitment, the benefits shall resume upon subsequent release
30 from the institution.

31 If death results from the injury, death benefits shall
32 be awarded and paid to the dependents of the inmate as in
33 other workers' compensation cases except that the weekly rate
34 shall be equal to sixty-six and two-thirds percent of the
35 state average weekly wage paid employees as determined by

1 the Iowa department of job service under the provisions of
2 section ninety-six point three (96.3) of the Code and in
3 effect at the time of the injury.

4 Payment under this section shall be made promptly out of
5 appropriations which have been made for that purpose, if any.
6 An amount or part thereof which cannot be paid promptly from
7 the appropriation shall be paid promptly out of money in the
8 state treasury not otherwise appropriated.

9 The time limit for commencing an original proceeding to
10 determine entitlement to benefits under this section shall
11 be the same as set forth in section eighty-five point twenty-
12 six (85.26) of the Code. If an injury occurs to an inmate
13 so as to qualify the inmate for benefits under this section,
14 notwithstanding the fact that payments of weekly benefits
15 are not commenced, a memorandum of agreement shall be filed
16 with the industrial commissioner within thirty days of the
17 time the responsible authority receives notice or knowledge
18 of the injury as required by section eighty-five point twenty-
19 three (85.23) of the Code.

20 If a dispute arises as to the extent of disability when
21 a memorandum of agreement is on file or when an award deter-
22 mining liability has been made, an action to determine the
23 extent of disability must be commenced within one year of
24 the time of the release of the inmate from the institution.
25 This shall not bar the right to reopen the claim as provided
26 by section eighty-six point thirty-four (86.34) of the Code.

27 Responsibility for the filings required by chapter eighty-
28 six (86) of the Code for injuries resulting in permanent
29 disability or death and as modified by this section shall
30 be made in the same manner as for other employees of the
31 institution.

32 Sec. 6. This Act is effective January 1, 1979.

33 EXPLANATION

34 The bill provides workers' compensation for state inmates.

35

LSB 3425S
can/sd/14

HOUSE AMENDMENT TO SENATE FILE 2133

S-5896

- 1 Amend Senate File 2133, as amended and passed by
- 2 the Senate, as follows:
- 3 1. Page 2, line 13, by striking the word "awarded"
- 4 and inserting in lieu thereof the word "determined".
- 5 2. Page 2, line 16, by striking all after the
- 6 word "discharge."
- 7 3. Page 2, by striking lines 17 through 20.
- 8 4. Page 2, by striking lines 24 through 27.
- 9 5. Page 2, line 28, by striking the words "of
- 10 dependents."
- 11 6. Page 3, by inserting after line 31 the following
- 12 section:
- 13 "Sec. _____ Section eighty-eight point three (88.3),
- 14 subsection five (5), Code 1977, is amended to read
- 15 as follows:
- 16 5. "Employee" means an employee of an employer
- 17 who is employed in a business of his employer.
- 18 "Employee" also means an inmate as defined in section
- 19 five (5) of this Act, when he or she works in
- 20 connection with the maintenance of the institution,
- 21 in an industry maintained in the institution, or while
- 22 otherwise on detail to perform services for pay."
- 23 7. Renumber sections to conform with this amend-
- 24 ment.
- 25 8. Amend the title, line 1, by striking all after
- 26 the word "to" and inserting in lieu thereof the words
- 27 "limit claims of inmates injured while working to
- 28 workers' compensation."

S-5896 FILED
MAY 11, 1978

RECEIVED FROM THE HOUSE

Senate concurred 5/11 (pp. 46-60)

SENATE FILE 2133
FISCAL NOTE

Date: February 21, 1978
Requested by: Senator Gene Glenn
In compliance with a written request received February 16, 1978, there is hereby submitted a Fiscal Note for Senate File 2133, pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

Senate File 2133, An Act to provide workers' compensation for state inmates.

Research done by the Industrial Commissioner indicates that detailed information concerning types of injuries and time from work loss is not available to make an adequate projection of costs as they would be incurred by S.F. 2133. Therefore, no fiscal estimate is available at this time.

Source: Industrial Commissioner

FILED FEBRUARY 21, 1978

Gerry Rankin, Fiscal Director
LEGISLATIVE FISCAL BUREAU

H-5831

- 1 Amend Senate File 2133, as amended and passed by
2 the Senate, as follows:
3 1. Page 2, line 13, by striking the word "awarded"
4 and inserting in lieu thereof the word "determined".
5 2. Page 2, line 16, by striking all after the
6 word "discharge."
7 3. Page 2, by striking lines 17 through 20.
8 4. Page 2, by striking lines 24 through 27.
9 5. Page 2, line 28, by striking the words "of
10 dependents."
11 6. Page 3, by inserting after line 31 the following
12 section:
13 "Sec. ____ . Section eighty-eight point three (88.3),
14 subsection five (5), Code 1977, is amended to read
15 as follows:
16 5. "Employee" means an employee of an employer
17 who is employed in a business of his employer..
18 "Employee" also means an inmate as defined in section
19 five (5) of this Act, when he or she works in
20 connection with the maintenance of the institution,
21 in an industry maintained in the institution, or while
22 otherwise on detail to perform services for pay."
23 7. Renumber sections to conform with this amend-
24 ment.
25 8. Amend the title, line 1, by striking all after
26 the word "to" and inserting in lieu thereof the words
27 "limit claims of inmates injured while working to
28 workers' compensation."

H-5831 FILED *Adopted 5/11* BY JESSE of Polk
MARCH 29, 1978 *(p. 2494)* NEWHARD of Jones

1 Amend Senate File 2133 as follows:

2 1. Page 3, by inserting after line 31 the following
3 sections:

4 "Sec. ____ Chapter eighty-five (85), Code 1977,
5 is amended by adding the following new section:

6 NEW SECTION. GARNISHMENT OF WORKERS' COMPENSA-
7 TION FOR INMATES.

8 1. Compensation due or that may become due an
9 inmate under section five (5) of this Act shall be
10 subject to garnishment, attachment, and execution
11 as follows:

12 a. By victims of crimes for which the inmate has
13 been convicted if the victim petitions for a money
14 judgment in a civil action within seven years after
15 his or her cause of action accrues; and

16 b. For the support of the inmate's minor child
17 or children if an order, judgment, or decree for
18 support is rendered in this state.

19 2. Within a reasonable time after an inmate files
20 a claim of workers' compensation, the warden or
21 superintendent of the institution where the inmate
22 is serving his or her sentence shall make a reasonable
23 effort to notify, by ordinary mail, victims of the
24 inmate's crimes and persons entitled to child support,
25 who may be eligible to garnish part or all of the
26 compensation due or that may become due an inmate
27 under section five (5) of this Act. The notification
28 shall include the following information:

29 a. The fact that the inmate has filed a claim
30 for workers' compensation benefits under section five
31 (5) of this Act;

32 b. The amount of compensation benefits that may
33 be determined; and

34 c. A statement that the victim or person entitled
35 to child support may begin proceedings involving
36 garnishment of workers' compensation benefits.

37 3. After a victim obtains a money judgment or
38 writ of attachment against the inmate or after an
39 order, judgment, writ, or decree for support of a
40 minor child is obtained, a certified copy of that
41 order, judgment, writ, or decree shall be filed with
42 the state comptroller and with the industrial
43 commissioner. The state comptroller shall send payment
44 of all or as much of the compensation benefits as
45 is necessary to satisfy the order, judgment, writ,
46 or decree to the clerk of court who shall dispose
47 of the funds as provided by law. Payment may be in
48 installments.

49 4. Section six hundred forty-two point twenty-
50 one (642.21) of the Code shall not apply to the

1 garnishment of compensation benefits under this Act.
 2 Sec. . Section six hundred twenty-seven point
 3 thirteen (627.13), Code 1977, is amended to read as
 4 follows:
 5 627.13 WORKERS' COMPENSATION. Any compensation
 6 due or that may become due an employee or dependent
 7 under the provisions of chapter 85 shall be exempt
 8 from garnishment, attachment, and execution. However,
 9 compensation due or that may become due an inmate
 10 under section five (5) of this Act shall be subject
 11 to garnishment, attachment, and execution as follows:
 12 a. By victims of crimes for which the inmate has
 13 been convicted if the victim petitions for a money
 14 judgment in a civil action within seven years after
 15 his or her cause of action accrues; and
 16 b. For the support of the inmate's minor child
 17 or children if an order, judgment, or decree for
 18 support is rendered in this state."
 19 2. By renumbering sections to conform with this
 20 amendment.

H-5491 FILED BY CONLON of Muscatine
 MARCH 1, 1978 BENNETT of Ida
Last 5/11 (p. 2497) SCHNEKLOTH of Scott
 WOODS of Polk
 CHIODO of Polk
 HUSAK of Tama
 HARVEY of Scott
 BRANSTAD of Winnebago
 WYCKOFF of Benton
 HARBOR of Mills
 CRABB of Crawford
 HANSEN of O'Brien
 GILSON of Guthrie
 HOFFMANN of Muscatine
 MENKE of O'Brien
 CLARK of Lee
 SMALLEY of Polk
 DAGGETT of Adams
 GARRISON of Black Hawk
 HINKHOUSE of Cedar
 THOMPSON of Polk
 DIELEMAN of Marion
 DUNTON of Keokuk
 HULLINGER of Decatur

SENATE FILE 2133

H-5561

1 Amend the House amendment, H-5491, to Senate File
 2 2133 as follows:
 3 1. Page 1, by inserting after line 48 the following
 4 paragraph:
 5 "Among competing garnishments, a claim under
 6 paragraph b of subsection one (1) of this section
 7 shall have priority."

H-5561 FILED *Last 5/11* BY CONLON of Muscatine
 MARCH 7, 1978 *(p. 2496)*

SENATE FILE 2133

AN ACT

TO LIMIT CLAIMS OF INMATES INJURED WHILE WORKING TO WORKERS' COMPENSATION.

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

Section 1. Section twenty-five A point fourteen (25A.14), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Any claim by an inmate as defined in section five (5) of this Act.

Sec. 2. Section eighty-five point thirty-six (85.36), subsection ten (10), Code 1977, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. If the employee was an inmate as defined in section five (5) of this Act, the inmate's actual earnings shall be disregarded, and the weekly compensation rate shall be as set forth in section five (5) of this Act.

Sec. 3. Section eighty-five point forty-five (85.45), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Future payments of compensation shall not be commuted to a present worth lump sum payment when the employee is an inmate as set forth in section five (5) of this Act.

Sec. 4. Section eighty-five point sixty-one (85.61), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. "Workman" or "employee" shall include an inmate as defined in section five (5) of this Act.

Sec. 5. Chapter eighty-five (85), Code 1977, is amended by adding the following new section:

NEW SECTION. For the purposes of this section, the term

"inmate" includes a person confined in a reformatory, state penitentiary, release center, or other state penal or correctional institution while that person works in connection with the maintenance of the institution or in an industry maintained therein or while on detail to perform services on a public works project.

If an inmate is permanently incapacitated by injury in the performance of his or her work in connection with the maintenance of the institution or in an industry maintained therein or while on detail to perform services on a public works project, that inmate shall be awarded only such benefits as are provided in section eighty-five point twenty-seven (85.27) and section eighty-five point thirty-four (85.34), subsections two (2) and three (3) of the Code. The weekly rate for such permanent disability shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section ninety-six point three (96.3) of the Code and in effect at the time of the injury.

Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge.

If an inmate is receiving benefits under the provisions of this section and is recommitted to an institution covered by this section, the benefits shall immediately cease. If benefits cease because of the inmate's recommitment, the benefits shall resume upon subsequent release from the institution.

If death results from the injury, death benefits shall be awarded and paid to the dependents of the inmate as in other workers' compensation cases except that the weekly rate shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by

the Iowa department of job service under the provisions of section ninety-six point three (96.3) of the Code and in effect at the time of the injury.

Payment under this section shall be made promptly out of appropriations which have been made for that purpose, if any. An amount or part thereof which cannot be paid promptly from the appropriation shall be paid promptly out of money in the state treasury not otherwise appropriated.

The time limit for commencing an original proceeding to determine entitlement to benefits under this section shall be the same as set forth in section eighty-five point twenty-six (85.26) of the Code. If an injury occurs to an inmate so as to qualify the inmate for benefits under this section, notwithstanding the fact that payments of weekly benefits are not commenced, a memorandum of agreement shall be filed with the industrial commissioner within thirty days of the time the responsible authority receives notice or knowledge of the injury as required by section eighty-five point twenty-three (85.23) of the Code.

If a dispute arises as to the extent of disability when a memorandum of agreement is on file or when an award determining liability has been made, an action to determine the extent of disability must be commenced within one year of the time of the release of the inmate from the institution. This shall not bar the right to reopen the claim as provided by section eighty-six point thirty-four (86.34) of the Code.

Responsibility for the filings required by chapter eighty-six (86) of the Code for injuries resulting in permanent disability or death and as modified by this section shall be made in the same manner as for other employees of the institution.

Sec. 6. Section eighty-eight point three (88.3), subsection five (5), Code 1977, is amended to read as follows:

5. "Employee" means an employee of an employer who is employed in a business of his employer. "Employee" also means

an inmate as defined in section five (5) of this Act, when he or she works in connection with the maintenance of the institution, in an industry maintained in the institution, or while otherwise on detail to perform services for pay.

Sec. 7. This Act is effective January 1, 1979.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2133, Sixty-seventh General Assembly.

KEVIN P. LIGHT
Acting Secretary of the Senate

Approved June 3, 1978

ROBERT D. RAY
Governor