

Re: Appropriations 5/1/85 De Pree 512
Re: House 1/13/86

SENATE FILE 579

BY COMMITTEE ON APPROPRIATIONS

approved (p. 1729)
FILED APR 26 1985

Passed Senate, Date 4-30-85 (p. 1833) Passed House, Date _____
Vote: Ayes 28 Nays 14 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to substance abuse evaluations and temporary
2 restricted licenses for second and subsequent violators
3 of section 321.281, and providing for retroactive application.

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

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87579

1 Section 1. Section 321.281, unnumbered paragraph 2, is
2 amended to read as follows:

3 On a conviction or deferred judgment for a second first or
4 subsequent offense in violation of this section, the court
5 shall order the defendant person to undergo a substance abuse
6 evaluation as designated by the Iowa department of substance
7 abuse and the court may order the defendant person to follow
8 the recommendations as proposed in-the-substance-abuse
9 evaluation-for-appropriate-substance-abuse-treatment-for-the
10 defendant. If the person is indigent, the cost of the
11 substance abuse evaluation shall be paid by the victim
12 reparation funds available pursuant to chapter 912. Court
13 ordered substance abuse treatment is subject to the periodic
14 reporting requirements of section 125.86. If a defendant
15 person is committed by the court to a substance abuse
16 treatment facility, the administrator of the facility shall
17 report to the court when it is determined that the defendant
18 person has received the maximum benefit of treatment at the
19 facility and the defendant person shall be released from the
20 facility. The time for which the defendant person is
21 committed for treatment shall be credited against the
22 defendant's person's sentence. The court may prescribe the
23 length of time for the evaluation and treatment or it may
24 request that the treatment program to which the person is
25 committed immediately report to the court when the person has
26 received maximum benefit from the treatment program or has
27 recovered from the person's addiction, dependency, or tendency
28 to chronically abuse alcohol or drugs. A person committed
29 under this section who does not possess sufficient income or
30 estate to make payment of the costs of the treatment in whole
31 or in part shall be considered a state patient and the costs
32 of treatment shall be paid as provided in section 125.44. A
33 defendant person who fails to carry out the order of the court
34 or who fails to successfully complete or attend an ordered
35 substance abuse treatment program shall be confined in the

1 county jail for twenty days in addition to any other
2 imprisonment ordered by the court or may be ordered to perform
3 unpaid community service work, and shall be placed on
4 probation for one year with a violation of this probation
5 punishable as contempt of court.

6 Sec. 2. Section 321B.13, unnumbered paragraph 2, Code
7 1985, is amended to read as follows:

8 The department may, on application, issue a temporary
9 restricted license to a person whose license has been subject
10 to revocation under section 321.209, subsection 2, section
11 321.281, or this chapter, for a second or subsequent time to
12 allow the person to drive to and from the person's home and
13 place of employment, in the course of the person's employment,
14 and to attend evaluation, treatment or educational services
15 for alcohol or drug dependency, upon. A temporary restricted
16 license issued under this section for a second or subsequent
17 revocation shall not be issued until expiration of the first
18 three hundred and sixty days of the person's period of
19 revocation, unless the second or subsequent revocation
20 resulted from the application of section 321B.16.

21 Sec. 3. Section 2 of this Act takes effect July 1, 1985
22 and applies to all persons revoked for a second or subsequent
23 time on or after July 1, 1984.

24 EXPLANATION

25 This bill relates to the offense of operating a motor
26 vehicle while intoxicated as follows:

27 Section 1 of the bill provides that all persons convicted
28 or receiving a deferred sentence for a violation of section
29 321.281 must undergo a substance abuse evaluation and provides
30 that if the offender is indigent, the cost of such evaluation
31 shall be paid for from the victim reparation fund.

32 Section 2 of the bill provides that the present time
33 restriction against temporary restricted licenses contained in
34 section 321B.13 does not apply to revocations pursuant to
35 section 321B.16.

1 Section 3 provides that the provisions of section 2 of the
2 bill shall be retroactive and apply to persons revoked on or
3 after July 1, 1984.

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SENATE 15--MAY 3, 1985

STATE OF IOWA

FISCAL NOTELSB No. 2897S
Staff ID: JMN

SF 579

In compliance with a written request received April 29, 1985, a fiscal note for SENATE FILE 579 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 579 provides that all persons convicted or receiving a deferred sentence for a violation of operating while intoxicated must undergo a substance abuse evaluation. Under current law, evaluations must be conducted only for second and subsequent offenses. The bill provides that if the offender is indigent, the cost of the evaluations will be paid for from the victim reparation fund.

The bill also provides that the present 360-day time restriction on temporary restricted licenses contained in section 321B.13 does not apply to revocations pursuant to section 321B.16 (administrative revocation for alcohol concentration over .10).

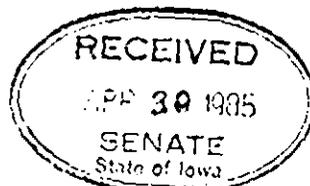
FISCAL EFFECT: It is estimated that there are approximately 8,750 annual convictions or deferred sentences for first-time OWI. Estimates of the number of these offenders who are indigent varies between 23% and 50%. The average reimbursement rate of an individual assessment is \$41.62. This bill is therefore estimated to increase expenditures from the victim reparation fund between \$93,750 and \$162,000 annually. However, state-funded community-based programs are already paying for evaluations for approximately 2,355 first-time offenders; the cost of these evaluations would no longer be paid out of the general fund appropriation to the Department of Substance Abuse.

Estimates vary concerning the amount of funds available in the victim reparation fund. In 1984, 20,450 driver's license revocations were issued that require the payment of the \$100 fee before reinstatement. However, there is a considerable lag between the time a license is revoked and the time the fee is paid; furthermore, not all licensees will apply for reinstatement. Through March 30, 1985, \$208,000 has been received by the victim reparation fund. Another problem in estimating the fund's balance is that the purposes for which the fund may be used is expanded by several bills being considered by the general assembly. The most recent estimate by the Department of Public Safety for expenditures in FY 1986 is \$1,275,000. Estimated revenue ranges between \$1.4 and \$2.0 million.

The additional evaluations required by the bill are expected to result in an increased number of referrals to treatment programs. The Iowa Department of Substance Abuse estimates there will be an additional 1,817 referrals to outpatient treatment, and an additional 143 referrals to inpatient treatment. These additional referrals are estimated to cost \$1.8 million.

Sources: Iowa Department of Substance Abuse
Governor's Highway Safety Office
Statistical Analysis Center

(LSB 2897S, JMN)



Dennis A. Prouty
Fiscal Director
Legislative Fiscal Bureau
Date: 4/30/85

S-4110

SENATE FILE 579

- 1 Amend Senate File 579 as follows:
- 2 1. Page 1, by striking lines 10 through 12, and
- 3 inserting the following: "defendant. Court".

S-4110 Filed April 29, 1985

By RITSEMA

Lock 4/30/85 (p 1826)

SENATE 4
APRIL 30, 1985

S-4135

SENATE FILE 579

1 Amend Senate File 579 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 125.44, unnumbered paragraph
5 1, Code 1985, is amended to read as follows:

6 The director may, consistent with the comprehensive
7 substance abuse program, enter into written agreements
8 with a facility as defined in section 125.2 to pay for
9 seventy-five percent of the cost of the care,
10 maintenance, evaluation and treatment of a substance
11 abuser, except that the state's liability shall be one
12 hundred percent of the total cost of care, maintenance
13 and treatment when a substance abuser is a state
14 patient. All payments for state patients shall be
15 made in accordance with the limitations of this
16 section. Such contracts shall be for a period of no
17 more than one year. The commission shall review and
18 evaluate at least once each year all such agreements
19 and determine whether or not they shall be continued.

20 Sec. 2. Section 125.45, subsection 1, Code 1985,
21 is amended to read as follows:

22 1. Except as provided in section 125.43, each
23 county shall pay for the remaining twenty-five percent
24 of the cost of the care, maintenance, evaluation and
25 treatment under this chapter of residents of that
26 county. The commission shall establish guidelines for
27 use by the counties in estimating the amount of
28 expense which the county will incur each year. The
29 facility shall certify to the county of residence once
30 each month twenty-five percent of the unpaid cost of
31 the care, maintenance, and treatment of a substance
32 abuser. However, the approval of the board of
33 supervisors is required before payment is made by a
34 county for costs incurred which exceed a total of five
35 hundred dollars for one year for treatment provided to
36 any one substance abuser, except that approval is not
37 required for the cost of treatment provided to a
38 substance abuser who is detained pursuant to section
39 125.91. A facility may, upon approval of the board of
40 supervisors, submit to a county a billing for the
41 aggregate amount of all care, maintenance, and
42 treatment of substance abusers who are residents of
43 that county for each month. The board of supervisors
44 may demand an itemization of billings at any time or
45 may audit them."

46 2. Page 1, line 28, by inserting after the word
47 "committed" the words "or required to undergo a
48 substance abuse evaluation".

49 3. Page 1, line 32, by inserting after the word
50 "treatment" the words "or evaluation".

7/15 4/30 (p. 1826)

S-4135 Filed April 29, 1985

By RITSEMA

SENATE FILE 579

H-4261

1 Amend Senate File 579 as passed by the Senate as
2 follows:
3 1. Page 1, by striking lines 3 and 4, and
4 inserting in lieu thereof the following:
5 "On a conviction or deferred judgment for ~~a-second~~
6 ~~or-subsequent~~ an offense in violation of this section,
7 the court".
8 2. Page 1, line 5, by striking the words
9 "defendant person" and inserting the word "defendant".
10 3. Page 1, line 7, by striking the words
11 "defendant person" and inserting the word "defendant".
12 4. Page 1, line 10, by striking the word "person"
13 and inserting the word "defendant".
14 5. Page 1, line 14, by striking the word
15 "defendant" and inserting the word "defendant".
16 6. Page 1, line 15, by striking the word
17 "person".
18 7. Page 1, line 17, by striking the word
19 "defendant" and inserting the word "defendant".
20 8. Page 1, line 18, by striking the word
21 "person".
22 9. Page 1, line 19, by striking the words
23 "defendant person" and inserting the word "defendant".
24 10. Page 1, line 20, by striking the words
25 "defendant person" and inserting the word "defendant".
26 11. Page 1, line 22, by striking the words
27 "defendant's person's" and inserting the word
28 "defendant's".
29 12. Page 1, line 33, by striking the words
30 "defendant person" and inserting the word "defendant".
31 13. Page 2, by striking lines 6 through 20, and
32 inserting the following:
33 "Sec. 2. Section 321B.16, unnumbered paragraph 4,
34 Code 1985, is amended to read as follows:
35 The Notwithstanding the provisions of section
36 321B.13, the department may, on application, issue a
37 temporary restricted license to the person whose
38 license has been revoked when the person's regular
39 employment includes the operation of a motor vehicle
40 or the person cannot perform the person's regular
41 occupation without the use of a motor vehicle, or when
42 the person's use of a motor vehicle is necessary to
43 attend evaluation, treatment or educational services
44 for alcohol or drug dependency, but the person shall
45 not operate a vehicle for pleasure while holding a
46 restricted license. However, this paragraph does not
47 apply to a person whose license is suspended or
48 revoked for another reason."

H-4261 FILED MAY 4, 1985

BY JAY of Appanoose

SENATE FILE 579

H-4181

1 Amend Senate File 579 as passed by the Senate as
2 follows:
3 1. Page 2, by inserting after line 20 the
4 following:
5 "Sec. 3. Section 321B.16, Code 1985, is amended by
6 adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. If a chemical test
8 results in the institution of a criminal proceeding
9 and the administrative revocation of driving
10 privileges and the criminal action is subsequently
11 dismissed for lack of probable cause, insufficient
12 evidence, violation of criminal law or procedure, or
13 for any other reason, the administrative revocation
14 which resulted from the test shall be rescinded."
15 2. Title page, line 1, by inserting after the
16 word "evaluations" the following: ", test result
17 revocations".
18 3. By renumbering as necessary.

H-4181 FILED MAY 1, 1985

BY MUHLBAUER of Crawford

SENATE FILE 579

H-4182

1 Amend Senate File 579 as passed by the Senate as
2 follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Section 1. Section 321.281, subsection 1,
6 paragraph b, Code 1985, is amended to read as follows:
7 b. While having an alcohol concentration of
8 ~~thirteen ten~~ hundredths or more."
9 2. Title page, by striking lines 1 through 3 and
10 inserting the following:
11 "An Act relating to violations of chapter 321.281
12 by changing the alcohol concentration at which a per
13 se violation occurs, requiring substance evaluations,
14 making certain second and subsequent violators
15 eligible for temporary restricted licenses, and
16 providing for retroactive application of certain
17 provisions."
18 3. By renumbering as necessary.

BY VAN CAMP of Scott

COREY of Louisa

BRANSTAD of Winnebago

HERMANN of Scott

GRANDIA of Marion

McKEAN of Jones

H-4182 FILED MAY 1, 1985

SENATE FILE 579

H-4242

1 Amend Senate File 579 as passed by the Senate as
2 follows:
3 1. Page 2, line 21, by inserting after the word
4 "Section" the following: "1 of this Act takes effect
5 and applies to all persons convicted or receiving a
6 deferred sentence on or after July 1, 1986, and
7 section".

H-4242 FILED MAY 3, 1985

BY JAY of Appanoose