

HUMAN RESOURCES: Sturgeon, Chair; Corning and Carr

*Amend (3199) to Do. Pass 3/19/87 (g. 7917)
Re: Human Resources 4/10/87*

FILED MAR 09 1987

SENATE FILE 347
BY STURGEON

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the violation of a law or rule by a health
2 care facility.

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

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SF 347

1 Section 1. Section 135C.36, subsection 2, Code 1987, is
2 amended to read as follows:

3 2. A Class II violation is one which has a direct or
4 immediate relationship to the health, safety, or security of
5 residents of a health care facility, but which presents no
6 imminent danger nor substantial probability of death or
7 physical harm to them. A physical condition or one or more
8 practices within a facility, including either physical abuse
9 of any resident or failure to treat any resident with
10 consideration, respect, and full recognition of the resident's
11 dignity and individuality, in violation of a specific rule
12 adopted by the department, may constitute a Class II
13 violation. A violation of section 135C.14, subsection 8, or
14 section 135C.31 ~~and rules or a rule~~ adopted under those
15 sections ~~shall be~~ is at least a Class II violation and may be
16 a Class I violation. A Class II violation shall be corrected
17 within a stated period of time determined by the department
18 and specified in the citation issued under section 135C.40.
19 The stated period of time specified in the citation may
20 subsequently be modified by the department for good cause
21 shown. A licensee is subject to a penalty of not less than
22 one five hundred nor more than one thousand five hundred
23 dollars for each Class II violation for which the licensee's
24 facility is cited. ~~however the~~ The director ~~may~~ shall not
25 waive the penalty ~~if the violation is corrected within the~~
26 ~~time specified in the citation.~~

27 Sec. 2. Section 135C.40, subsection 1, Code 1987, is
28 amended to read as follows:

29 1. If the director determines, based on the findings of an
30 inspection or investigation of a health care facility, that
31 the facility is in violation of this chapter or rules adopted
32 under this chapter, the director within five working days
33 after making the determination, ~~may~~ shall issue a written
34 citation to the facility. The citation shall be served upon
35 the facility personally or by certified mail, except that a

1 citation for a Class III violation may be sent by ordinary
 2 mail. Each citation shall specifically describe the nature of
 3 the violation, identifying the Code section or subsection or
 4 the rule or standard violated, and the classification of the
 5 violation under section 135C.36. Where appropriate, the
 6 citation shall also state the period of time allowed for
 7 correction of the violation, which shall in each case be the
 8 shortest period of time the department deems feasible.
 9 Failure to correct a violation within the time specified,
 10 unless the licensee shows that the failure was due to
 11 circumstances beyond the licensee's control, shall subject the
 12 facility to a further penalty of fifty dollars for each day
 13 that the violation continues after the time specified for
 14 correction.

EXPLANATION

16 This bill increases the monetary penalty for a class II
 17 violation for which a health care facility is cited. The bill
 18 also removes the allowance of a waiver of the penalty by the
 19 director of the department of public health. The bill also
 20 requires the issuance of a citation for all violations
 21 substantiated through inspection or investigation of a health
 22 care facility.

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SENATE FILE 347

S-3456

1 Amend Senate File 347 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 135C.36, subsection 2, Code
5 1987, is amended to read as follows:

6 2. A Class II violation is one which has a direct
7 or immediate relationship to the health, safety or
8 security of residents of a health care facility, but
9 which presents no imminent danger nor substantial
10 probability of death or physical harm to them. A
11 physical condition or one or more practices within a
12 facility, including either physical abuse of any
13 resident or failure to treat any resident with
14 consideration, respect and full recognition of the
15 resident's dignity and individuality, in violation of
16 a specific rule adopted by the department, may
17 constitute a Class II violation. A violation of
18 section 135C.14, subsection 8, or section 135C.31 and
19 rules or a rule adopted under those sections shall be
20 pursuant to chapter 17A is at least a Class II
21 violation and may be a Class I violation. A Class II
22 violation. An initial citing of a Class II violation is
23 subject to a hearing and if the violation is founded
24 shall be corrected within a stated period of time
25 determined by the department and specified in the
26 citation issued under section 135C.40. The stated
27 period of time specified in the citation may
28 subsequently be modified by the department for good
29 cause shown. A If a health care facility is cited a
30 second time for a Class II violation, a licensee is
31 subject to a penalty of not less than one hundred nor
32 more than five hundred dollars for each Class II
33 violation for which the licensee's facility is cited,
34 however-the. A health care facility cited a third or
35 subsequent time for a Class II violation shall be
36 subject to a penalty of not more than one thousand
37 five hundred dollars. The director may not waive the
38 penalty if-the-violation-is-corrected-within-the-time
39 specified-in-the-citation."

S-3456

Filed April 8, 1987

BY BERL E. PRIEBE
LEE W. HOLT
KENNETH D. SCOTT

SENATE FILE 347

S-3199

1 Amend Senate File 347 as follows:

2 1. Page 1, by striking line 22 and inserting the
3 following: "one two hundred fifty or more than five
4 hundred one thousand".

5 2. Page 1, by striking lines 24 through 26 and
6 inserting the following: "facility is cited, however,
7 the director may waive the penalty if the violation is
8 corrected within the time specified in the citation."

9 3. By striking page 1, line 27 through page 2,
10 line 14.

S-3199

Filed March 19, 1987

BY COMMITTEE ON HUMAN RESOURCES
BEVERLY A. HANNON, Chairperson

SENATE FILE 347

S-3429

1 Amend Senate File 347 as follows:

2 1. Page 1, line 15, by inserting after the word
3 "sections" the following: "pursuant to chapter 17A,".

4 2. Page 1, line 16, by striking the words "A
5 class II violation" and inserting the following: "A
6 class-II-violation An initial citing of a class II
7 violation is subject to a hearing and if the violation
8 is founded".

9 3. Page 1, line 21, by striking the word "A" and
10 inserting the following: "A If a health care facility
11 is cited a second time for a class II violation, a".

12 4. Page 1, line 22, by striking the words "one
13 five" and inserting the word "one".

14 5. Page 1, line 22, by striking the words "one
15 thousand".

16 6. Page 1, line 24, by inserting after the word
17 "cited," the following: "A health care facility
18 cited a third or subsequent time for a class II
19 violation shall be subject to a penalty of not more
20 than one thousand five hundred dollars."

S-3429

Filed April 6, 1987

BY BERL PRIEBE
LEE W. HOLT
KENNETH D. SCOTT

STATE OF IOWA

FISCAL NOTE TO
SENATE AMENDMENT S-3199

LSB No. 2571S.2
Staff ID. TCF

BY SENATOR HANNON

In compliance with a written request received March 25, 1986, a fiscal note for ~~SENATE AMENDMENT S-3199~~ is hereby submitted pursuant to Joint Rule 19. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate amendment S3199 to Senate File 347 decreases the monetary penalty for a class II violation from a range of \$500 to \$1,500 to a range of \$250 to \$1,000. The amendment also allows discretion to the director to waive penalties as well as the issuance of citations.

ASSUMPTIONS:

1. Ninety-five class II violations per year. Approximately five violations would be assessed against county care facilities.
2. The average penalty would be \$625 per violation (range \$250 - \$1000).

FISCAL IMPACT

The fiscal impact of SF 347 is as follows:

	(dollars in thousands)					
	Fiscal Year 1988			Fiscal Year 1989		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
REVENUE						
General Fund \$	27	\$ 59	\$ 32	\$ 27	\$ 59	\$ 32
(Penalty Fees)						
Total	\$ 27	\$ 59	\$ 32	\$ 27	\$ 59	\$ 32
EXPENDITURES						
Sal/Support \$	25	\$ 32	\$ 7	\$ 25	\$ 32	\$ 7
(PTE's)	(1.0)	(1.3)	(.3)	(1.0)	(1.3)	(.3)
Total	\$ 25	\$ 32	\$ 7	\$ 25	\$ 32	\$ 7
NET EFFECT	\$ 2	\$ 27	\$ 25	\$ 2	\$ 27	\$ 25

It should be noted that of the \$59,000 collected in penalties, approximately \$3,000 will come from penalties assessed against county care facilities.

Source: Department of Inspections and Appeals

(LSB 2571S.2, TCF)

Lewis Prouty
Fiscal Director

Legislative Fiscal Bureau

Date: 3/25/87

STATE OF IOWA

FISCAL NOTE TO

LSB No. 2571S
Staff No. 105

BY SENATOR STURGEON SENATE FILE 347

In compliance with a written request received March 5, 1987, a fiscal note SENATE FILE 347 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 347 increases the monetary penalty for a class II violation for which a health care facility is cited. The bill also removes the allowance of a waiver of the penalty by the Director of the Department of Public Health. The bill also requires the issuance of a citation for all violations substantiated through inspection or investigation of a health care facility.

ASSUMPTIONS:

1. Average of six class II violations per health care facility.
2. Approximately 700 facilities surveyed annually. Approximately 84 of the 700 facilities are county care facilities.
3. The minimum penalty would be \$500 per violation (range \$500 - \$1500).

FISCAL IMPACT

The fiscal impact of SF 347 is as follows:

(dollars in thousands)

	Fiscal Year 1988			Fiscal Year 1989		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
REVENUE						
General Fund \$	27	\$ 2,100	\$ 2,073	\$ 27	\$ 2,100	\$ 2,073
(Penalty Fees)						
Total	\$ 27	\$ 2,100	\$ 2,073	\$ 27	\$ 2,100	\$ 2,073
EXPENDITURES						
Sal/Support \$	25	\$ 262	\$ 237	\$ 25	\$ 262	\$ 237
(FTE's)	(1.0)	(10.0)	(9.0)	(1.0)	(10.0)	(9.0)
Total	\$ 25	\$ 262	\$ 237	\$ 25	\$ 262	\$ 237
NET EFFECT	\$ 2	\$ 1,838	\$ 1,836	\$ 2	\$ 1,838	\$ 1,836

It should be noted that of the \$2.1 million collected in penalties, approximately \$252,000 will come from penalties assessed against county care facilities.

Source: Department of Inspections and Appeals

(LSB 2571S, TCF)

Dennis A. Prouty
Fiscal Director
Legislative Fiscal Bureau
Date: 3/25/87