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FILED MAR 09 1989

SENATE FILE **396**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 85)

Passed Senate, Date 4-4-89 (p. 115A) Passed House, Date _____
Vote: Ayes 48 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

3521, 3347

1 An Act relating to victim notification, by providing for the
2 distribution of the presentence investigation report to
3 counsel, registration of victims with the county attorney,
4 filing of the victim impact statement, and notification to
5 victims by various departments.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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8

SENATE FILE 396

S-3201

1 Amend Senate File 396 as follows:
2 1. Page 3, by striking line 16 and inserting the
3 following: "expected to be released from custody
4 because of the expiration of the offender's sentence."

By MARK R. HAGERLA

S-3201 FILED MARCH 9, 1989 ADOPTED 3-20-89 (p. 894)

SF 396

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3347-1 Section 1. Section 901.4, Code 1989, is amended to read as
2 follows:

3 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

4 The presentence investigation report is confidential and
5 the court shall provide safeguards to ensure its
6 confidentiality, including but not limited to sealing the
7 report, which may be opened only by further court order. At
8 least three days prior to the date set for sentencing, the
9 court shall make serve all of the presentence investigation
10 report ~~available-for-inspection-to~~ upon the defendant's
11 attorney, ~~and to the attorney for the state,~~ and the report
12 shall remain confidential except upon court order. However,
13 the court may conceal the identity of the person who provided
14 confidential information. The report of a medical examination
15 or psychological or psychiatric evaluation shall be made
16 available to the attorney for the state and to the defendant
17 upon request. The reports are part of the record but shall be
18 sealed and opened only on order of the court. If the
19 defendant is committed to the custody of the Iowa department
20 of corrections and is not a class "A" felon, a copy of the
21 presentence investigation report shall be forwarded to the
22 director with the order of commitment by the clerk of the
23 district court and to the board of parole at the time of
24 commitment. The defendant or the defendant's attorney may
25 file with the presentence investigation report, a denial or
26 refutation of the allegations, or both, contained in the
27 report. The denial or refutation shall be included in the
28 report.

3521,
3347-29 Sec. 2. Section 910A.1, subsection 3, Code 1989, is
30 amended to read as follows:

31 3. "Registered" means having provided the appropriate
32 ~~office, agency, or department~~ county attorney with the
33 victim's written request for notification registration and
34 current mailing address and telephone number.

35 Sec. 3. NEW SECTION. 910A.2 REGISTRATION.

1 The county attorney shall be the sole registrar of victims
2 under this chapter. A victim may register by filing a written
3 request-for-registration form with the county attorney. The
4 county attorney shall notify the victims in writing and advise
5 them of their registration and rights under this chapter. The
6 county attorney shall provide the appropriate offices,
7 agencies, and departments with a registered victim list for
8 notification purposes.

9 Sec. 4. Section 910A.5A, unnumbered paragraph 1, Code
10 1989, is amended to read as follows:

11 A victim may file a signed victim impact statement with the
12 ~~presentence-investigator~~ county attorney, and a filed impact
13 statement shall be included in the presentence investigation
14 report. If a presentence investigation report is not ordered
15 by the court, a filed victim impact statement shall be
16 provided to the court prior to sentencing.

17 Sec. 5. Section 910A.6, subsection 5, Code 1989, is
18 amended by striking the subsection.

19 Sec. 6. Section 910A.7, Code 1989, is amended to read as
20 follows:

21 910A.7 NOTIFICATION BY CLERK OF COURT.

3347-22 The clerk of court shall notify a ~~victim~~ registered with
23 ~~the-office-of-the-clerk-of-court~~ victim of all dispositional
24 orders of the case in which the victim was involved and may
25 advise the victim of any other orders regarding custody or
26 confinement.

3347-27 Sec. 7. NEW SECTION. 910A.7A NOTIFICATION BY CLERK OF
28 THE SUPREME COURT.

29 The clerk of the supreme court shall notify a registered
30 victim of all dispositional orders of a case currently on
31 appeal in which the victim was involved.

32 Sec. 8. Section 910A.8, unnumbered paragraph 1, Code 1989,
33 is amended to read as follows:

34 The local police department or county sheriff's department
35 shall advise a victim of the right to register with the county

1 attorney, and shall provide a request-for-registration form to
2 each victim. The county sheriff or other person in charge of
3 the local jail or detention facility shall notify a victim
4 ~~registered with-the-jail-or-detention-facility~~ victim of the
5 following:

6 Sec. 9. Section 910A.9, unnumbered paragraph 1, Code 1989,
7 is amended to read as follows:

8 The department of corrections shall notify a victim
9 registered ~~with-the-department~~ victim, regarding an offender
10 convicted of a violent crime and committed to the custody of
11 the director of the department of corrections, of the
12 following:

13 Sec. 10. Section 910A.9, Code 1989, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 5. The date on which the offender is
16 released upon discharge of sentence.

17 Sec. 11. Section 910A.10, subsection 1, unnumbered
18 paragraph 1, Code 1989, is amended to read as follows:

19 The board of parole shall notify a victim registered with
20 ~~the-board~~ victim, regarding an offender who has committed a
21 violent crime, as follows:

22 Sec. 12. Section 910A.11, subsection 2, Code 1989, is
23 amended to read as follows:

24 2. Offenders who are being considered for release on
25 parole may be informed of a victim's registration with the
26 ~~board~~ county attorney and the substance of any opinion
27 submitted by the victim regarding the release of the offender.

28 EXPLANATION

29 This bill provides for serving an offender's presentence
30 investigation report on counsel for the defendant and for the
31 state. The bill provides for victim registration with the
32 county attorney, for filing the victim impact statement with
33 the county attorney, and for victim notification by various
34 agencies and departments.

35 This bill may include a state mandate as defined in chapter

1 25B.

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SENATE FILE 396
FISCAL NOTE

A fiscal note for **SENATE FILE 396** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 396 requires the county attorney to be the sole registrar for victims of crime. The county attorney would then notify registered victims of their rights. The county attorney would also provide relevant agencies with a registered victim list for purposes of notification. State Departments maintain their duties regarding notification to victims. Local law enforcement officers are required to advise victims of their right to register with the county attorney, and shall provide a registration form to each victim.

There is no fiscal impact upon the General Fund. However, there may be a fiscal impact at the local level, i.e., for mailing notifications. That cost cannot be estimated at this time.

Sources: Department of Corrections
Department of Public Safety
Judicial Department
Parole Board
Department of Management
Department of Justice
County Attorneys Association
Department of Human Rights, Criminal and Juvenile Justice
Planning (LSB 1266sv, BAL)

FILED MARCH 21, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

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LSB 1266SV 73

SENATE FILE 396

S-3347

1 Amend Senate File 396 as follows:

2 1. Page 1, by striking lines 1 through 28.

3 2. Page 1, by inserting before line 29 the
4 following:

5 "Sec. ____ . Section 904A.1, Code 1989, is amended
6 to read as follows:

7 904A.1 BOARD OF PAROLE

8 The board of parole is created to consist of five
9 members, three members who shall devote their full
10 time to the parole and work release system and two
11 members who shall be part-time. Each member shall
12 serve a term of four years beginning and ending as
13 provided by section 69.19, except appointments to fill
14 vacancies who shall serve for the balance of the
15 unexpired term. ~~The chairperson of the board shall be~~
16 ~~elected by the members of the board to a term of one~~
17 ~~year and may serve more than one term consecutively.~~
18 A majority of the members of the board constitutes a
19 quorum to transact business.

20 Sec. ____ . NEW SECTION. 904A.5A CHAIRPERSON --
21 DESIGNATION, DUTIES, AND POWERS.

347522 1. The chief administrative officer of the board
23 of parole is the chairperson. The governor shall
24 designate one of the full-time members of the board of
25 parole as the chairperson. The chairperson shall
26 serve at the pleasure of the governor. The
27 chairperson shall be qualified and experienced in
28 prison expansion.

29 2. The chairperson shall:

30 a. Act as the board of parole's liaison with the
31 governor regarding executive clemency, parole, and
32 work release of inmates.

33 b. Direct, supervise, evaluate, and assign the
34 day-to-day administration of the board of parole.

35 c. Supervise and monitor parole revocations and
36 appeals.

37 d. Supervise final work release revocation case
38 reviews.

39 e. Supervise the development of rules, policies,
40 and procedures relating to the supervision of
41 executive clemency, parole, and work release of
42 inmates, subject to the approval of the board of
43 parole.

3476 44 Sec. ____ . Section 906.5, Code 1989, is amended to
45 read as follows:

46 906.5 RECORD REVIEWED -- RULES.

47 1. Within one year after the commitment of a
48 person other than a class "A" felon, class "B" felon
49 convicted of murder in the second degree and serving a
50 sentence of more than twenty-five years, or a felon

S-3347

Page 2

1 1 serving a mandatory minimum sentence, other than a
2 class "A" felon, to the custody of the director of the
3 Iowa department of corrections, unless good cause is
4 shown, a member of the board shall interview the
5 person. Thereafter, at regular intervals, not to
6 exceed one year, unless good cause is shown, the board
7 shall interview the person and consider the person's
8 prospects for parole or work release. Not less than
9 twenty days prior to conducting a hearing at which the
10 board will interview the person, the board shall
11 notify the department of corrections of the scheduling
12 of the interview, and the department shall make the
13 person available to the board at the person's
14 institutional residence as scheduled in the notice.
15 However, if health, safety, or security conditions
16 require moving the person to another institution or
17 facility prior to the scheduled interview, the
18 department of corrections shall so notify the board.

19 2. At the time of an interview required under this
20 section, the board shall consider all pertinent
21 information regarding the person, including the
22 circumstances of the person's offense, any presentence
23 report which is available, the previous social history
24 and criminal record of the person, the person's
25 conduct, work, and attitude in prison, and the reports
26 of physical and mental examinations that have been
27 made.

28 3. A person while on parole or work release is
29 under the supervision of the district department of
30 correctional services of the district designated by
31 the board of parole. The department of corrections
32 shall prescribe rules for governing persons on parole
33 or work release. The board may adopt other rules not
34 inconsistent with the rules of the department of
35 corrections as the board deems proper or necessary for
36 the performance of its functions.

37 Sec. ____ . Section 908.4, Code 1989, is amended to
38 read as follows:

39 908.4 PAROLE REVOCATION HEARING.

40 The parole revocation hearing shall be conducted by
41 ~~a an administrative parole revocation-officer judge~~
42 who is an attorney appointed pursuant to section
43 904A.5. The revocation hearing shall determine the
44 following:

- 45 1. Whether the alleged parole violation occurred.
- 46 2. Whether the violator's parole should be
47 revoked.

48 The ~~administrative parole revocation-officer judge~~
49 shall make a verbatim record of the proceedings. The
50 alleged violator shall be informed of the evidence

S-3347

Page 3

1 against the violator, shall be given an opportunity to
2 be heard, shall have the right to present witnesses
3 and other evidence, and shall have the right to cross-
4 examine adverse witnesses, except if the revocation
5 officer judge finds that a witness would be subjected
6 to risk or harm if the witness' identity were
7 disclosed. The revocation hearing may be conducted
8 electronically.

9 Sec. ____ . Section 908.5, Code 1989, is amended by
10 striking the section and inserting in lieu thereof the
11 following:

12 908.5 DISPOSITION.

3498 13 If a violation of parole is established, the
14 administrative parole judge may continue the parole
15 with or without any modification of the conditions of
16 parole. The administrative parole judge may hold the
17 parolee in contempt and order the parolee incarcerated
18 for a jail term not to exceed sixty days while
19 continuing the parole, may revoke the parole and
20 require the parolee to serve the sentence originally
21 imposed, or may revoke the parole and reinstate the
22 parolee's work release status. The order of the
23 administrative parole judge shall contain findings of
24 fact, conclusions of law, and a disposition of the
25 matter.

26 Sec. ____ . Section 908.6, Code 1989, is amended to
27 read as follows:

28 908.6 APPEAL OR REVIEW.

29 The order of the administrative parole revocation
30 officer judge shall become the final decision of the
31 board of parole unless, within the time provided by
32 rule, the parole violator appeals the decision or a
33 panel of the board reviews the decision on its own
34 motion. On appeal or review of the administrative
35 parole revocation-officer's judge's decision, the
36 board panel has all the power which it would have in
37 initially making the revocation hearing decision. The
38 appeal or review shall be conducted pursuant to rules
39 adopted by the board of parole. The record on appeal
40 or review shall be the record made at the parole
41 revocation hearing conducted by the administrative
42 parole revocation-officer judge.

43 Sec. ____ . Section 908.7, Code 1989, is amended to
44 read as follows:

45 908.7 WAIVER OF PAROLE REVOCATION HEARING.

46 The alleged parole violator may waive the parole
47 revocation hearing, in which event the administrative
48 parole revocation-officer judge shall proceed to
49 determine the disposition of the matter. The
50 administrative parole revocation-officer judge shall

S-3347

Page 4

1 dispose of the case as provided in section 908.4. The
2 ~~administrative parole revocation-officer~~ judge shall
3 make a verbatim record of the proceedings. The waiver
4 proceeding may be conducted electronically.

5 Sec. ____ . Section 908.10, Code 1989, is amended by
6 striking the section and inserting in lieu thereof the
7 following:

8 908.10 CONVICTION OF A FELONY WHILE ON PAROLE.

9 When a person is convicted and sentenced to
10 incarceration in this state for a felony committed
11 while on parole, or is convicted and sentenced to
12 incarceration under the laws of any other state of the
13 United States or a foreign government or country for
14 an offense committed while on parole, and which if
15 committed in this state would be a felony, the
16 person's parole shall be deemed revoked as of the date
17 of the commission of the new felony offense.

18 The parole officer shall inform the sentencing
19 judge that the convicted defendant is a parole
20 violator. The term for which the defendant shall be
21 imprisoned as a parole violator shall be the same as
22 that provided in cases of revocation of parole for
23 violation of the conditions of parole. The new
24 sentence of imprisonment for conviction of a felony
25 shall be served consecutively with the term imposed
26 for the parole violation, unless a concurrent term of
27 imprisonment is ordered by the court.

28 The parolee shall be notified in writing that
29 parole has been revoked on the basis of the new felony
30 conviction, and a copy of the commitment order shall
31 accompany the notification. The inmate's record shall
32 be reviewed pursuant to the provisions of section
33 906.5, or as soon as practical after a final reversal
34 of the new felony conviction.

35 An inmate may appeal the revocation of parole under
36 this section according to the board of parole's rules
37 relating to parole revocation appeals. Neither the
38 administrative parole judge nor the board panel shall
39 retry the facts underlying any conviction."

34940 3. Page 2, by striking lines 24 through 26, and
41 inserting the following: "orders of the case in which
42 the victim was involved ~~and may advise the victim of~~
43 ~~any other orders regarding custody or confinement."~~

34940 34940 4. Page 2, by striking lines 27 through 31.

45 5. Title page, by striking lines 1 through 5, and
46 inserting the following: "An Act relating to criminal
47 offenses, by providing for the designation of the
48 chairperson of the board of parole, providing for
49 review of an offender's record, for revocation of an
50 offender's parole, and for victim notification and

S-3347

Page 5

1 registration."

S-3347 FILED MARCH 20, 1989

By BOB CARR
out of order 43-89 (p. 1131)

SENATE FILE 396

S-3498

- 1 Amend the amendment, S-3347, to Senate File 396, as
 2 follows:
 3 1. Page 1, by striking lines 22 through 28 and
 4 inserting the following:
 5 "1. The governor shall designate one of the full-
 6 time members of the board of parole as the
 7 chairperson. The chairperson shall serve at the
 8 pleasure of the governor. The chairperson shall be
 9 the administrator of the board of parole."
 10 2. Page 1, by inserting after line 43 the
 11 following:
 12 "f. Supervise the development and disclosure of
 13 the board of parole's policy regarding prison
 14 expansion."
 15 3. Page 3, by striking lines 16 through 19 and
 16 inserting the following: "parole. The administrative
 17 parole judge may revoke the parole and".
 18 4. Page 4, by striking lines 40 through 44.
 19 5. Page 4, by inserting after line 44 the
 20 following:
 21 "_____. Page 3, by inserting after line 21 the
 22 following:
 23 "Sec. _____. Section 910A.10, subsection 1,
 24 paragraph a, Code 1989, is amended to read as follows:
 25 a. Not less than five twenty days prior to
 26 conducting a hearing at which the board will interview
 27 an offender, the board shall notify the victim of the
 28 interview and inform the victim that the victim may
 29 submit the victim's opinion concerning the release of
 30 the offender in writing prior to the hearing or may
 31 appear personally or by counsel at the hearing to
 32 express an opinion concerning the offender's
 33 release."
 34 6. By renumbering as necessary.

By BOB M. CARR

S-3498

FILED MARCH 30, 1989

Adopted 4-3-89 (p.1131)

SENATE FILE 396

S-3504

- 1 Amend Senate File 396, as follows:
 2 1. Page 3, by inserting after line 21 the
 3 following:
 4 "Sec. _____. Section 910A.10, subsection 1,
 5 paragraph a, Code 1989, is amended to read as follows:
 6 a. Not less than five twenty days prior to
 7 conducting a hearing at which the board will interview
 8 an offender, the board shall notify the victim of the
 9 interview and inform the victim that the victim may
 10 submit the victim's opinion concerning the release of
 11 the offender in writing prior to the hearing or may
 12 appear personally or by counsel at the hearing to
 13 express an opinion concerning the offender's release."
 14 2. By renumbering as necessary.

By JIM LIND

S-3504 FILED MARCH 31, 1989

Adopted 4-4-89 (p.1151)

SENATE FILE 396

S-3436

- 1 Amend the amendment, S-3347, to Senate File 396, as
2 follows:
3 1. Page 2, line 18, by inserting after the word
4 "board" the following: "not less than ten days prior
5 to the interview, unless a life threatening medical
6 emergency arises involving the person to be
7 interviewed which prohibits the giving of the notice".
8 2. Page 4, by inserting after line 44 the
9 following:
10 "____. Page 3, by inserting after line 21 the
11 following:
12 "Sec. ____ . Section 910A.10, subsection 1,
13 paragraph a, Code 1989, is amended to read as follows:
14 a. Not less than five twenty days prior to
15 conducting a hearing at which the board will interview
16 an offender, the board shall notify the victim of the
17 interview and inform the victim that the victim may
18 submit the victim's opinion concerning the release of
19 the offender in writing prior to the hearing or may
20 appear personally or by counsel at the hearing to
21 express an opinion concerning the offender's
22 release.""
23 3. By renumbering as necessary.

By JIM LIND

S-3436 FILED MARCH 28, 1989

withdrawn 4-3-89 (p.1131)

SENATE FILE 396

S-3521

1 Amend Senate File 396 as follows:

2 1. Page 1, by inserting after line 28 the
3 following:

4 "Sec. ____ . Section 906.5, Code 1989, is amended to
5 read as follows:

6 906.5 RECORD REVIEWED -- RULES.

7 1. Within one year after the commitment of a
8 person other than a class "A" felon, class "B" felon
9 convicted of murder in the second degree and serving a
10 sentence of more than twenty-five years, or a felon
11 serving a mandatory minimum sentence, other than a
12 class "A" felon, to the custody of the director of the
13 Iowa department of corrections, unless good cause is
14 shown, a member of the board shall interview the
15 person. Thereafter, at regular intervals, not to
16 exceed one year, unless good cause is shown, the board
17 shall interview the person and consider the person's
18 prospects for parole or work release. Not less than
19 twenty days prior to conducting a hearing at which the
20 board will interview the person, the board shall
21 notify the department of corrections of the scheduling
22 of the interview, and the department shall make the
23 person available to the board at the person's
24 institutional residence as scheduled in the notice.
25 However, if health, safety, or security conditions
26 require moving the person to another institution or
27 facility prior to the scheduled interview, the
28 department of corrections shall so notify the board.

29 2. At the time of an interview required under this
30 section, the board shall consider all pertinent
31 information regarding the person, including the
32 circumstances of the person's offense, any presentence
33 report which is available, the previous social history
34 and criminal record of the person, the person's
35 conduct, work, and attitude in prison, and the reports
36 of physical and mental examinations that have been
37 made.

38 3. A person while on parole or work release is
39 under the supervision of the district department of
40 correctional services of the district designated by
41 the board of parole. The department of corrections
42 shall prescribe rules for governing persons on parole
43 or work release. The board may adopt other rules not
44 inconsistent with the rules of the department of
45 corrections as the board deems proper or necessary for
46 the performance of its functions.

47 Sec. ____ . Section 908.4, Code 1989, is amended to
48 read as follows:

49 908.4 PAROLE REVOCATION HEARING.

50 The parole revocation hearing shall be conducted by

S-3521

Page 2

1 a an administrative parole revocation-officer judge
2 who is an attorney appointed pursuant to section
3 904A.5. The revocation hearing shall determine the
4 following:

- 5 1. Whether the alleged parole violation occurred.
- 6 2. Whether the violator's parole should be
7 revoked.

8 The administrative parole revocation-officer judge
9 shall make a verbatim record of the proceedings. The
10 alleged violator shall be informed of the evidence
11 against the violator, shall be given an opportunity to
12 be heard, shall have the right to present witnesses
13 and other evidence, and shall have the right to cross-
14 examine adverse witnesses, except if the revocation
15 officer judge finds that a witness would be subjected
16 to risk or harm if the witness' identity were
17 disclosed. The revocation hearing may be conducted
18 electronically.

19 Sec. ____ . Section 908.5, Code 1989, is amended by
20 striking the section and inserting in lieu thereof the
21 following:

22 908.5 DISPOSITION.

23 If a violation of parole is established, the
24 administrative parole judge may continue the parole
25 with or without any modification of the conditions of
26 parole. The administrative parole judge may revoke
27 the parole and require the parolee to serve the
28 sentence originally imposed, or may revoke the parole
29 and reinstate the parolee's work release status. The
30 order of the administrative parole judge shall contain
31 findings of fact, conclusions of law, and a
32 disposition of the matter.

33 Sec. ____ . Section 908.6, Code 1989, is amended to
34 read as follows:

35 908.6 APPEAL OR REVIEW.

36 The order of the administrative parole revocation
37 officer judge shall become the final decision of the
38 board of parole unless, within the time provided by
39 rule, the parole violator appeals the decision or a
40 panel of the board reviews the decision on its own
41 motion. On appeal or review of the administrative
42 parole revocation-officer's judge's decision, the
43 board panel has all the power which it would have in
44 initially making the revocation hearing decision. The
45 appeal or review shall be conducted pursuant to rules
46 adopted by the board of parole. The record on appeal
47 or review shall be the record made at the parole
48 revocation hearing conducted by the administrative
49 parole revocation-officer judge.

50 Sec. ____ . Section 908.7, Code 1989, is amended to

S-3521

Page 3

1 read as follows:

2 908.7 WAIVER OF PAROLE REVOCATION HEARING.

3 The alleged parole violator may waive the parole
4 revocation hearing, in which event the administrative
5 parole revocation-officer judge shall proceed to
6 determine the disposition of the matter. The
7 administrative parole revocation-officer judge shall
8 dispose of the case as provided in section 908.4. The
9 administrative parole revocation-officer judge shall
10 make a verbatim record of the proceedings. The waiver
11 proceeding may be conducted electronically.

12 Sec. ____ . Section 908.10, Code 1989, is amended by
13 striking the section and inserting in lieu thereof the
14 following:

15 908.10 CONVICTION OF A FELONY WHILE ON PAROLE.

16 When a person is convicted and sentenced to
17 incarceration in this state for a felony committed
18 while on parole, or is convicted and sentenced to
19 incarceration under the laws of any other state of the
20 United States or a foreign government or country for
21 an offense committed while on parole, and which if
22 committed in this state would be a felony, the
23 person's parole shall be deemed revoked as of the date
24 of the commission of the new felony offense.

25 The parole officer shall inform the sentencing
26 judge that the convicted defendant is a parole
27 violator. The term for which the defendant shall be
28 imprisoned as a parole violator shall be the same as
29 that provided in cases of revocation of parole for
30 violation of the conditions of parole. The new
31 sentence of imprisonment for conviction of a felony
32 shall be served consecutively with the term imposed
33 for the parole violation, unless a concurrent term of
34 imprisonment is ordered by the court.

35 The parolee shall be notified in writing that
36 parole has been revoked on the basis of the new felony
37 conviction, and a copy of the commitment order shall
38 accompany the notification. The inmate's record shall
39 be reviewed pursuant to the provisions of section
40 906.5, or as soon as practical after a final reversal
41 of the new felony conviction.

42 An inmate may appeal the revocation of parole under
43 this section according to the board of parole's rules
44 relating to parole revocation appeals. Neither the
45 administrative parole judge nor the board panel shall
46 retry the facts underlying any conviction."

47 2. Page 3, by inserting after line 21 the
48 following:

49 "Sec. ____ . Section 910A.10, subsection 1,
50 paragraph a, Code 1989, is amended to read as follows:

S-3521

Page 4

1 a. Not less than five twenty days prior to
2 conducting a hearing at which the board will interview
3 an offender, the board shall notify the victim of the
4 interview and inform the victim that the victim may
5 submit the victim's opinion concerning the release of
6 the offender in writing prior to the hearing or may
7 appear personally or by counsel at the hearing to
8 express an opinion concerning the offender's release."

9 3. Title page, by striking lines 1 through 5, and
10 inserting the following: "An Act relating to criminal
11 offenses, by providing for the distribution of the
12 presentence investigation report to counsel, providing
13 for review of an offender's record, for revocation of
14 an offender's parole, and for victim notification and
15 registration."

16 4. By renumbering as necessary.

By BOB CARR

S-3521 FILED APRIL 3, 1989

Adopted 4-4-89 (p.15)

SENATE FILE 396
FISCAL NOTE

A fiscal note for AMENDMENT S-3347 TO SENATE FILE 396 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment S-3347 to Senate File 396 states that the Parole Board does not have to interview inmates serving mandatory minimum terms, life sentences, or serving a sentence in excess of 25 years for second degree murder. Amendment S-3347 grants the Administrative Parole Judge the discretion to order a parole violator to serve a county jail term not to exceed 60 days. The Amendment also states that parole is automatically revoked if a person commits a felony offense.

Assumptions

1. Board members receive an annual salary.
2. Board members perform the annual interviews in conjunction with regularly scheduled trips to Correctional Institutions.
3. In comparing FY 1989 to FY 1988, parole violation reports have increased 6.9% and revocation hearings have increased 18%.
4. Of the inmates eligible to be placed in county jails, 50% would be ordered to serve a 60 day term.
5. Inmates held in the county jails would serve the full term allowed (60 days).
6. The average cost per day for county confinement is \$50.

Fiscal Impact

There is no fiscal impact upon the Parole Board. Rather, the workload reduction associated with not performing the annual interviews and not holding certain revocation hearings would allow the Board to spend more time reviewing eligible cases for parole. The automatic revocation of parole for persons committing new felony offenses would allow the Administrative Parole Judge to spend more time reviewing background materials for other revocation hearings.

The fiscal impact of granting the Administrative Parole Judge the discretion to order parole violators to be held in county jails for up to 60 days is \$588,000 (196 inmates x 60 days x \$50).

Sources: Department of Corrections
Department of Management
Parole Board

(LSB 1266sd.2, BAL)

FILED MARCH 29, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 396
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 85)

(AS AMENDED AND PASSED BY THE SENATE APRIL 4, 1989)

_____ - New Language by the Senate

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

A BILL FOR

1 An Act relating to criminal offenses, by providing for the
2 distribution of the presentence investigation report to
3 counsel, providing for review of an offender's record, for
4 revocation of an offender's parole, and for victim
5 notification and registration.

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

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1 Section 1. Section 901.4, Code 1989, is amended to read as
2 follows:

3 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

4 The presentence investigation report is confidential and
5 the court shall provide safeguards to ensure its
6 confidentiality, including but not limited to sealing the
7 report, which may be opened only by further court order. At
8 least three days prior to the date set for sentencing, the
9 court shall make serve all of the presentence investigation
10 report ~~available-for-inspection-to~~ upon the defendant's
11 attorney, ~~and to the attorney for the state,~~ and the report
12 shall remain confidential except upon court order. However,
13 the court may conceal the identity of the person who provided
14 confidential information. The report of a medical examination
15 or psychological or psychiatric evaluation shall be made
16 available to the attorney for the state and to the defendant
17 upon request. The reports are part of the record but shall be
18 sealed and opened only on order of the court. If the
19 defendant is committed to the custody of the Iowa department
20 of corrections and is not a class "A" felon, a copy of the
21 presentence investigation report shall be forwarded to the
22 director with the order of commitment by the clerk of the
23 district court and to the board of parole at the time of
24 commitment. The defendant or the defendant's attorney may
25 file with the presentence investigation report, a denial or
26 refutation of the allegations, or both, contained in the
27 report. The denial or refutation shall be included in the
28 report.

29 Sec. 2. Section 906.5, Code 1989, is amended to read as
30 follows:

31 906.5 RECORD REVIEWED -- RULES.

32 1. Within one year after the commitment of a person other
33 than a class "A" felon, class "B" felon convicted of murder in
34 the second degree and serving a sentence of more than twenty-
35 five years, or a felon serving a mandatory minimum sentence,

1 other than a class "A" felon, to the custody of the director
2 of the Iowa department of corrections, unless good cause is
3 shown, a member of the board shall interview the person.
4 Thereafter, at regular intervals, not to exceed one year,
5 unless good cause is shown, the board shall interview the
6 person and consider the person's prospects for parole or work
7 release. Not less than twenty days prior to conducting a
8 hearing at which the board will interview the person, the
9 board shall notify the department of corrections of the
10 scheduling of the interview, and the department shall make the
11 person available to the board at the person's institutional
12 residence as scheduled in the notice. However, if health,
13 safety, or security conditions require moving the person to
14 another institution or facility prior to the scheduled
15 interview, the department of corrections shall so notify the
16 board.

17 2. At the time of an interview required under this
18 section, the board shall consider all pertinent information
19 regarding the person, including the circumstances of the
20 person's offense, any presentence report which is available,
21 the previous social history and criminal record of the person,
22 the person's conduct, work, and attitude in prison, and the
23 reports of physical and mental examinations that have been
24 made.

25 3. A person while on parole or work release is under the
26 supervision of the district department of correctional
27 services of the district designated by the board of parole.
28 The department of corrections shall prescribe rules for
29 governing persons on parole or work release. The board may
30 adopt other rules not inconsistent with the rules of the
31 department of corrections as the board deems proper or
32 necessary for the performance of its functions.

33 Sec. 3. Section 908.4, Code 1989, is amended to read as
34 follows:

35 908.4 PAROLE REVOCATION HEARING.

1 The parole revocation hearing shall be conducted by a an
2 administrative parole revocation-officer judge who is an
3 attorney appointed pursuant to section 904A.5. The revocation
4 hearing shall determine the following:

- 5 1. Whether the alleged parole violation occurred.
- 6 2. Whether the violator's parole should be revoked.

7 The administrative parole revocation-officer judge shall
8 make a verbatim record of the proceedings. The alleged
9 violator shall be informed of the evidence against the
10 violator, shall be given an opportunity to be heard, shall
11 have the right to present witnesses and other evidence, and
12 shall have the right to cross-examine adverse witnesses,
13 except if the revocation-officer judge finds that a witness
14 would be subjected to risk or harm if the witness' identity
15 were disclosed. The revocation hearing may be conducted
16 electronically.

17 Sec. 4. Section 908.5, Code 1989, is amended by striking
18 the section and inserting in lieu thereof the following:

19 908.5 DISPOSITION.

20 If a violation of parole is established, the administrative
21 parole judge may continue the parole with or without any
22 modification of the conditions of parole. The administrative
23 parole judge may revoke the parole and require the parolee to
24 serve the sentence originally imposed, or may revoke the
25 parole and reinstate the parolee's work release status. The
26 order of the administrative parole judge shall contain
27 findings of fact, conclusions of law, and a disposition of the
28 matter.

29 Sec. 5. Section 908.6, Code 1989, is amended to read as
30 follows:

31 908.6 APPEAL OR REVIEW.

32 The order of the administrative parole revocation-officer
33 judge shall become the final decision of the board of parole
34 unless, within the time provided by rule, the parole violator
35 appeals the decision or a panel of the board reviews the

1 decision on its own motion. On appeal or review of the
2 administrative parole revocation-officer's judge's decision,
3 the board panel has all the power which it would have in
4 initially making the revocation hearing decision. The appeal
5 or review shall be conducted pursuant to rules adopted by the
6 board of parole. The record on appeal or review shall be the
7 record made at the parole revocation hearing conducted by the
8 administrative parole revocation-officer judge.

9 Sec. 6. Section 908.7, Code 1989, is amended to read as
10 follows:

11 908.7 WAIVER OF PAROLE REVOCATION HEARING.

12 The alleged parole violator may waive the parole revocation
13 hearing, in which event the administrative parole revocation
14 officer judge shall proceed to determine the disposition of
15 the matter. The administrative parole revocation-officer
16 judge shall dispose of the case as provided in section 908.4.
17 The administrative parole revocation-officer judge shall make
18 a verbatim record of the proceedings. The waiver proceeding
19 may be conducted electronically.

20 Sec. 7. Section 908.10, Code 1989, is amended by striking
21 the section and inserting in lieu thereof the following:

22 908.10 CONVICTION OF A FELONY WHILE ON PAROLE.

23 When a person is convicted and sentenced to incarceration
24 in this state for a felony committed while on parole, or is
25 convicted and sentenced to incarceration under the laws of any
26 other state of the United States or a foreign government or
27 country for an offense committed while on parole, and which if
28 committed in this state would be a felony, the person's parole
29 shall be deemed revoked as of the date of the commission of
30 the new felony offense.

31 The parole officer shall inform the sentencing judge that
32 the convicted defendant is a parole violator. The term for
33 which the defendant shall be imprisoned as a parole violator
34 shall be the same as that provided in cases of revocation of
35 parole for violation of the conditions of parole. The new

1 sentence of imprisonment for conviction of a felony shall be
2 served consecutively with the term imposed for the parole
3 violation, unless a concurrent term of imprisonment is ordered
4 by the court.

5 The parolee shall be notified in writing that parole has
6 been revoked on the basis of the new felony conviction, and a
7 copy of the commitment order shall accompany the notification.
8 The inmate's record shall be reviewed pursuant to the
9 provisions of section 906.5, or as soon as practical after a
10 final reversal of the new felony conviction.

11 An inmate may appeal the revocation of parole under this
12 section according to the board of parole's rules relating to
13 parole revocation appeals. Neither the administrative parole
14 judge nor the board panel shall retry the facts underlying any
15 conviction.

16 Sec. 8. Section 910A.1, subsection 3, Code 1989, is
17 amended to read as follows:

18 3. "Registered" means having provided the appropriate
19 office, agency, or department county attorney with the
20 victim's written request for notification registration and
21 current mailing address and telephone number.

22 Sec. 9. NEW SECTION. 910A.2 REGISTRATION.

23 The county attorney shall be the sole registrar of victims
24 under this chapter. A victim may register by filing a written
25 request-for-registration form with the county attorney. The
26 county attorney shall notify the victims in writing and advise
27 them of their registration and rights under this chapter. The
28 county attorney shall provide the appropriate offices,
29 agencies, and departments with a registered victim list for
30 notification purposes.

31 Sec. 10. Section 910A.5A, unnumbered paragraph 1, Code
32 1989, is amended to read as follows:

33 A victim may file a signed victim impact statement with the
34 presentence investigator or county attorney, and a filed impact
35 statement shall be included in the presentence investigation

1 report. If a presentence investigation report is not ordered
2 by the court, a filed victim impact statement shall be
3 provided to the court prior to sentencing.

4 Sec. 11. Section 910A.6, subsection 5, Code 1989, is
5 amended by striking the subsection.

6 Sec. 12. Section 910A.7, Code 1989, is amended to read as
7 follows:

8 910A.7 NOTIFICATION BY CLERK OF COURT.

9 The clerk of court shall notify a ~~victim~~ registered with
10 ~~the-office-of-the-clerk-of-court~~ victim of all dispositional
11 orders of the case in which the victim was involved and may
12 advise the victim of any other orders regarding custody or
13 confinement.

14 Sec. 13. NEW SECTION. 910A.7A NOTIFICATION BY CLERK OF
15 THE SUPREME COURT.

16 The clerk of the supreme court shall notify a registered
17 victim of all dispositional orders of a case currently on
18 appeal in which the victim was involved.

19 Sec. 14. Section 910A.8, unnumbered paragraph 1, Code
20 1989, is amended to read as follows:

21 The local police department or county sheriff's department
22 shall advise a victim of the right to register with the county
23 attorney, and shall provide a request-for-registration form to
24 each victim. The county sheriff or other person in charge of
25 the local jail or detention facility shall notify a ~~victim~~
26 ~~registered with-the-jail-or-detention-facility~~ victim of the
27 following:

28 Sec. 15. Section 910A.9, unnumbered paragraph 1, Code
29 1989, is amended to read as follows:

30 The department of corrections shall notify a ~~victim~~
31 ~~registered with-the-department~~ victim, regarding an offender
32 convicted of a violent crime and committed to the custody of
33 the director of the department of corrections, of the
34 following:

35 Sec. 16. Section 910A.9, Code 1989, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 5. The date on which the offender is
3 expected to be released from custody because of the expiration
4 of the offender's sentence.

5 Sec. 17. Section 910A.10, subsection 1, unnumbered
6 paragraph 1, Code 1989, is amended to read as follows:

7 The board of parole shall notify a victim registered with
8 ~~the-board~~ victim, regarding an offender who has committed a
9 violent crime, as follows:

10 Sec. 18. Section 910A.10, subsection 1, paragraph a, Code
11 1989, is amended to read as follows:

12 a. Not less than five twenty days prior to conducting a
13 hearing at which the board will interview an offender, the
14 board shall notify the victim of the interview and inform the
15 victim that the victim may submit the victim's opinion
16 concerning the release of the offender in writing prior to the
17 hearing or may appear personally or by counsel at the hearing
18 to express an opinion concerning the offender's release.

19 Sec. 19. Section 910A.11, subsection 2, Code 1989, is
20 amended to read as follows:

21 2. Offenders who are being considered for release on
22 parole may be informed of a victim's registration with the
23 board county attorney and the substance of any opinion
24 submitted by the victim regarding the release of the offender.

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SENATE FILE 396
FISCAL NOTE

REQ. BY SENATOR CARR

A fiscal note for AMENDMENT S-3498 TO AMENDMENT S-3347 to SENATE FILE 396 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment S-3498 strikes the provision in S-3347 which grants the Administrative Parole Judge the discretion to order a parole violator to serve a county jail term for up to 60 days. That provision is estimated to cost \$588,000.

Source: Department of Corrections

(LSB 1266sd.3, BAL)

FILED APRIL 4, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

CARR. CH.
DELUHERY
GENTLEMAN

SSB 85
JUDICIARY

Now

SENATE FILE 376
BY (PROPOSED DEPARTMENT OF
CORRECTIONS BILL)

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

A BILL FOR

1 An Act relating to victim notification, by providing for the
2 distribution of the presentence investigation report to
3 counsel, registration of victims with the county attorney,
4 filing of the victim impact statement, and notification to
5 victims by various departments.

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

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1 Section 1. Section 901.4, Code 1989, is amended to read as
2 follows:

3 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

4 The presentence investigation report is confidential and
5 the court shall provide safeguards to ensure its
6 confidentiality, including but not limited to sealing the
7 report, which may be opened only by further court order. At
8 least three days prior to the date set for sentencing, the
9 court shall ~~make~~ serve all of the presentence investigation
10 report ~~available-for-inspection-to~~ upon the defendant's
11 attorney, ~~and to the attorney for the state,~~ and the report
12 shall remain confidential except upon court order. However,
13 the court may conceal the identity of the person who provided
14 confidential information. The report of a medical examination
15 or psychological or psychiatric evaluation shall be made
16 available to the attorney for the state and to the defendant
17 upon request. The reports are part of the record but shall be
18 sealed and opened only on order of the court. If the
19 defendant is committed to the custody of the Iowa department
20 of corrections and is not a class "A" felon, a copy of the
21 presentence investigation report shall be forwarded to the
22 director with the order of commitment by the clerk of the
23 district court and to the board of parole at the time of
24 commitment. The defendant or the defendant's attorney may
25 file with the presentence investigation report, a denial or
26 refutation of the allegations, or both, contained in the
27 report. The denial or refutation shall be included in the
28 report.

29 Sec. 2. Section 910A.1, subsection 3, Code 1989, is
30 amended to read as follows:

31 3. "Registered" means having provided the appropriate
32 ~~office, agency, or department~~ county attorney with the
33 victim's written request for ~~notification~~ registration and
34 current mailing address and telephone number.

35 Sec. 3. NEW SECTION. 910A.2 REGISTRATION.

1 The county attorney shall be the sole registrar of victims
2 under this chapter. A victim may register by filing a written
3 request-for-registration form with the county attorney. The
4 county attorney shall notify the victims in writing and advise
5 them of their registration and rights under this chapter. The
6 county attorney shall provide the appropriate offices,
7 agencies, and departments with a registered victim list for
8 notification purposes.

9 Sec. 4. Section 910A.5A, unnumbered paragraph 1, Code
10 1989, is amended to read as follows:

11 A victim may file a signed victim impact statement with the
12 ~~presentence-investigator~~ county attorney, and a filed impact
13 statement shall be included in the presentence investigation
14 report. If a presentence investigation report is not ordered
15 by the court, a filed victim impact statement shall be
16 provided to the court prior to sentencing.

17 Sec. 5. Section 910A.6, subsection 5, Code 1989, is
18 amended by striking the subsection.

19 Sec. 6. Section 910A.7, Code 1989, is amended to read as
20 follows:

21 910A.7 NOTIFICATION BY CLERK OF COURT.

22 The clerk of court shall notify a ~~victim~~ registered with
23 ~~the-office-of-the-clerk-of-court~~ victim of all dispositional
24 orders of the case in which the victim was involved and may
25 advise the victim of any other orders regarding custody or
26 confinement.

27 Sec. 7. NEW SECTION. 910A.7A NOTIFICATION BY CLERK OF
28 THE SUPREME COURT.

29 The clerk of the supreme court shall notify a registered
30 victim of all dispositional orders of a case currently on
31 appeal in which the victim was involved.

32 Sec. 8. Section 910A.8, unnumbered paragraph 1, Code 1989,
33 is amended to read as follows:

34 The local police department or county sheriff's department
35 shall advise a victim of the right to register with the county

1 attorney, and shall provide a request-for-registration form to
2 each victim. The county sheriff or other person in charge of
3 the local jail or detention facility shall notify a victim
4 ~~registered with-the-jail-or-detention-facility~~ victim of the
5 following:

6 Sec. 9. Section 910A.9, unnumbered paragraph 1, Code 1989,
7 is amended to read as follows:

8 The department of corrections shall notify a victim
9 ~~registered with-the-department~~ victim, regarding an offender
10 convicted of a violent crime and committed to the custody of
11 the director of the department of corrections, of the
12 following:

13 Sec. 10. Section 910A.9, Code 1989, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 5. The date on which the offender is
16 released upon discharge of sentence.

17 Sec. 11. Section 910A.10, subsection 1, unnumbered
18 paragraph 1, Code 1989, is amended to read as follows:

19 The board of parole shall notify a victim registered with
20 ~~the-board~~ victim, regarding an offender who has committed a
21 violent crime, as follows:

22 Sec. 12. Section 910A.11, subsection 2, Code 1989, is
23 amended to read as follows:

24 2. Offenders who are being considered for release on
25 parole may be informed of a victim's registration with the
26 ~~board~~ county attorney and the substance of any opinion
27 submitted by the victim regarding the release of the offender.

28 EXPLANATION

29 This bill provides for serving an offender's presentence
30 investigation report on counsel for the defendant and for the
31 state. The bill provides for victim registration with the
32 county attorney, for filing the victim impact statement with
33 the county attorney, and for victim notification by various
34 agencies and departments.

35 This bill may include a state mandate as defined in chapter

1 25B.

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

4 Iowa crime victims have the right under the law to be
5 informed about the status of the offender in their case.

6 The Code presently requires crime victims who wish to keep
7 informed about offenders to register with five different
8 agencies. Additional concerns about the victim notification
9 process relate to the handling of presentence investigations
10 and the absence of notification on cases under appeal. This
11 bill addresses these concerns on the victim notification
12 process by providing a single registration point for victims,
13 improves notification access, and facilitates information
14 exchange between the public agencies involved.

15 This bill is the result of cooperative efforts to resolve
16 these problems. Input was received from victims rights
17 advocates, the Iowa Corrections Association, the Iowa County
18 Attorney's Association, the Iowa Sheriff's Association, and
19 the Parole Board, as well as the Department of Corrections.

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