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FILED MAR 16 1989

SENATE FILE 471
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 355)

Passed Senate, Date 4-5-89 (6/1/89) Passed House, Date _____
Vote: Ayes 37 Nays 9 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

332 1 An Act relating to certain felons and misdemeanants, by providing
2 for the placement of such parole or probation violators in the
3 county jail, providing for placement following county jail
4 confinement, requiring reimbursement to counties holding such
5 violators, and authorizing the sentencing court to sentence
6 such offenders to imprisonment in the county jail.

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

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SF 471

3532 amendments all-

1 Section 1. Section 356.15, Code 1989, is amended to read
2 as follows:

3 356.15 EXPENSES.

4 All charges and expenses for the safekeeping and
5 maintenance of prisoners shall be allowed by the board of
6 supervisors, except those committed or detained by the
7 authority of the courts of the United States, in which cases
8 the United States must pay such expenses to the county, and
9 those committed for violation of a city ordinance, in which
10 case the city shall pay expenses to the county. If a parole
11 or probation violator is committed to a county jail, the
12 county shall be reimbursed by the department of corrections in
13 accordance with section 906.18. If the violator is granted
14 work release from the county jail, the violator is liable to
15 the county for the cost of the violator's board as provided in
16 section 356.30. However, the state shall reimburse the county
17 for the balance of the cost of confining the violator.

18 Sec. 2. NEW SECTION. 902.4A REVIEW OF PAROLE VIOLATION
19 AND RECONSIDERATION OF SENTENCE.

20 Upon receipt of the notice as provided in section 908.9,
21 the court may order the person to be returned to the court, at
22 which time the court may review the order revoking the
23 violator's parole. The district court retains jurisdiction
24 for the limited purpose of conducting such review and
25 determining whether the best interest of society and the
26 violator would be served by committing the violator to serve a
27 maximum term of imprisonment of one year in the county jail
28 for violating the parole plan or conditions of parole, rather
29 than serving the terms of the parolee's original commitment.
30 The court shall enter the appropriate order, which shall be
31 delivered to the defendant personally or by certified mail.
32 The court's decision whether or not to review the parole
33 revocation order is not subject to appeal. If the court
34 declines to review the parole revocation order, the court
35 shall notify the parole revocation officer or board panel

1 within thirty days of receipt of the notice as provided in
2 section 908.9.

3 Sec. 3. Section 905.1, subsection 2, Code 1989, is amended
4 to read as follows:

5 2. "Community-based correctional program" means
6 correctional programs and services designed to supervise and
7 assist individuals who are charged with or have been convicted
8 of a felony, an aggravated misdemeanor or a serious
9 misdemeanor, or who are on probation or parole in lieu of or
10 as a result of a sentence of incarceration imposed upon
11 conviction of any of these offenses, or who have been confined
12 in a county jail as a result of revocation of probation or
13 parole for conviction and sentence of a class "C" or "D"
14 felony or aggravated misdemeanor, or who are contracted to the
15 district department for supervision and housing while on work
16 release.

17 Sec. 4. NEW SECTION. 906.18 CONFINEMENT OF PAROLE
18 VIOLATORS BY COUNTIES -- REIMBURSEMENT.

19 The department of corrections and each county shall enter
20 into a chapter 28E agreement for reimbursement to the county
21 for the confinement of parole and probation violators.

22 Sec. 5. Section 907.3, subsection 3, Code 1989, is amended
23 to read as follows:

24 3. By record entry at the time of or after sentencing, the
25 court may suspend do any of the following:

26 a. Suspend the sentence and place the defendant on
27 probation upon such terms and conditions as it may require
28 including commitment to an alternate jail facility or a
29 community correctional residential treatment facility for a
30 specific number of days to be followed by a term of probation
31 as specified in section 907.7. A person so committed who has
32 probation revoked shall be given credit for such time served.

33 b. If the defendant is being sentenced for a class "C" or
34 "D" felony, or aggravated misdemeanor, impose the sentence as
35 provided by law, suspend the sentence except for a maximum

1 period of one year, and order the defendant to serve a maximum
2 term of imprisonment of one year in the county jail.

3 Sec. 6. Section 908.5, Code 1989, is amended to read as
4 follows:

5 908.5 DISPOSITION.

6 If the parole revocation officer determines that the parole
7 should not be revoked, the parole revocation officer shall
8 issue an order reinstating the parole upon terms and
9 conditions the parole revocation officer shall determine,
10 including the transfer of the parolee to work release if
11 appropriate. If the parole revocation officer determines that
12 the parole should be revoked, the parole revocation officer
13 shall issue an order ~~revoking the parole~~ in accordance with
14 section 908.9, subsection 1 or 2. The order of the parole
15 revocation officer shall contain findings of fact, conclusions
16 of law, and a disposition of the matter.

17 Sec. 7. Section 908.9, Code 1989, is amended to read as
18 follows:

19 908.9 DISPOSITION OF VIOLATOR.

20 1. If the parole of a parole violator is revoked, the
21 violator shall remain in the custody of the Iowa department of
22 corrections under the terms of the parolee's original
23 commitment.

24 2. Notwithstanding subsection 1, if the parole of a parole
25 violator, originally committed to the department for
26 conviction of a class "C" or "D" felony, or aggravated
27 misdemeanor, is revoked, the parole revocation officer or
28 board panel shall determine whether the violator is to remain
29 in the custody of the director of the department of
30 corrections under the terms of the parolee's original
31 commitment, or is to be returned to the district court for
32 hearing and disposition pursuant to section 902.4A. Notice of
33 such determination shall be provided to the district court
34 within ten days of the determination and the court may order
35 the parole violator to be returned to court for review of the

1 parole revocation order.

2 3. If the parole of a parole violator is not revoked, the
3 parole revocation officer or board panel shall order the
4 person's release subject to the terms of the person's parole
5 with any modifications that the parole revocation officer or
6 board panel determines proper.

7 Sec. 8. NEW SECTION. 908.9A CUSTODY OF PAROLE OR
8 PROBATION VIOLATOR.

9 A parole or probation violator confined to a county jail
10 pursuant to section 902.4A shall remain committed to the
11 custody of the director of the department of corrections.

12 Sec. 9. Section 908.11, Code 1989, is amended to read as
13 follows:

14 908.11 VIOLATION OF PROBATION.

15 A probation officer or the judicial district department of
16 correctional services having probable cause to believe that
17 any person released on probation has violated the conditions
18 of probation shall proceed by arrest or summons as in the case
19 of a parole violation. The functions of the liaison officer
20 and the board of parole shall be performed by the judge or
21 magistrate who placed the alleged violator on probation if
22 that judge or magistrate is available, otherwise by another
23 judge or magistrate who would have had jurisdiction to try the
24 original offense. If the probation officer proceeds by
25 arrest, any magistrate may receive the complaint, issue an
26 arrest warrant, or conduct the initial appearance and probable
27 cause hearing if it is not convenient for the judge who placed
28 the alleged violator on probation to do so. The initial
29 appearance, probable cause hearing, and probation revocation
30 hearing, or any of them, may at the discretion of the court be
31 merged into a single hearing when it appears that the alleged
32 violator will not be prejudiced thereby. If the violation is
33 established, the court may continue the probation with or
34 without an alteration of the conditions of probation. If the
35 defendant is an adult the court may hold the defendant in

1 contempt of court and sentence the defendant to a jail term
2 while continuing the probation, or may revoke the probation
3 and require the defendant to serve the sentence imposed or any
4 lesser sentence, and, if imposition of sentence was deferred,
5 may impose any sentence which might originally have been
6 imposed. if the defendant's sentence was suspended or
7 deferred and the defendant has been placed on probation for
8 violation of a class "C" or "D" felony, or an aggravated
9 misdemeanor, and a violation of probation has been
10 established, the court may revoke probation and, as an
11 alternative to serving the sentence originally imposed,
12 require the defendant to serve a maximum term of imprisonment
13 of one year in the county jail.

14 EXPLANATION

15 This bill provides that persons committed to the custody of
16 the director of the department of corrections for conviction
17 of a class "C" or "D" felony, or an aggravated misdemeanor,
18 who violate their parole plan or conditions of parole, may be
19 committed by the district court to imprisonment in the county
20 jail for a maximum period of one year. These persons may be
21 place in a community-based correctional program upon release
22 from county jail confinement. The alternative sentence to the
23 county jail is also applicable to offenders who violate the
24 terms of their probation. The county holding such parole or
25 probation violators is to be reimbursed by the department of
26 corrections. The district court is granted limited
27 jurisdiction to review such parole violations. The bill may
28 contain a state mandate as defined in chapter 25B.

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SENATE FILE 471
FISCAL NOTE

A fiscal note for AMENDMENT S-3532 TO SENATE FILE 471 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-3532 to Senate File 471 strikes everything after the enactment clause. The amendment provides that probation and parole violators may be held in the county jail for a maximum term of one year, if they are eligible for work release, educational work release, or a Community Based Corrections Program. The offenders eligible are those who have been on parole or probation for a Class C or D felony, or aggravated misdemeanor, and have had the parole or probation revoked. The amendment provides that if the violator is granted work release from the county jail, (s)he is liable to the county for the cost of board, as determined by the county board of supervisors. The Department of Corrections shall reimburse the county for the balance of the cost of confining the violator.

The amendment permits the Department to enter into Chapter 28E agreements with the counties prior to the confinement of any of the eligible offenders. The Department of Corrections and counties may commence negotiation of and execution of the Chapter 28E agreements on or after July 1, 1989. Counties have the option of entering into Chapter 28E agreements with the State. Parole and probation violators who are eligible may be confined in the county jail commencing January 1, 1990.

Amendment S-3532 states that offenders sentenced to the Department of Corrections upon the imposition of consecutive sentences for serious misdemeanor violations, and the consecutive sentences exceed a total of one year, shall be considered to be guilty of an aggravated misdemeanor.

Assumptions

1. Violators will only be sentenced to jail in a county where a Chapter 28E agreement is in place.
2. Violators could serve a range of one day to one year in the county jail. However, all violators may earn good time. Therefore, violators may serve an average of three to five months in the county jail, under this proposed legislation.
3. County per diem rates average \$50. Counties may need to hire additional staff to supervise these additional jail inmates. If so, the revenue related to the provision which requires work release inmates to partially reimburse the county for board expenses, would partially offset the additional staff cost.
4. Institutional per diem rates average \$50.
5. Additional Community Based Corrections' staff are needed for supervision, at the rate of 1 probation/parole officer per 20 offenders. This would maintain the current staffing rate for work release programs.

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6. The staff would be hired at midyear, when the legislation takes effect.
7. Between March 1988 and February 1989, 749 parole and work release violators were admitted to the Institutions.
8. Of these, 10% would be assigned to a county jail under this proposed legislation.
9. An average of 1,250 probation revocations occur each year and 450 of these offenders are sent to prison.
10. Of the 450 offenders sent to prison, 25% would be assigned to a county jail under this proposed legislation.
11. For those probation violators who are sentenced to jail, counties will no longer have to pay for transportation to Oakdale. Counties would transport the sentenced offenders to the county jail.
12. The counties' average cost per trip to Oakdale is \$150, which includes mileage and staff.

Fiscal Impact

It is anticipated that 75 parole violators would be sentenced to jail per year. However, eligible violators cannot be confined in the county jail until January 1, 1990. Therefore, the number of parole violators sentenced to jail in FY 1990 is 38. The State would reimburse the counties for confining the offenders. The cost for confining these offenders is \$171,000 for three months (38 inmates x \$50 x 90 days), \$228,000 for four months (38 inmates x \$50 x 120 days), and \$285,500 for five months (38 inmates x \$50 x 150 days). If the institutional population decreases, the Department may be able to reimburse the counties with existing funds. If the institutional population remains stable, or increases, the cost noted above would be additional to the State.

It is anticipated that 113 probation violators would be sentenced to jail per year. However, eligible violators cannot be confined in the county jail until January 1, 1990. Therefore, the number of probation violators sentenced to jail in FY 1990 is 57. The State would reimburse the counties for confining the offenders. The cost for confining these offenders is \$256,500 for three months (57 inmates x \$50 x 90 days), \$342,000 for four months (57 inmates x \$50 x 120 days), and \$427,500 for five months (57 inmates x \$50 x 150 days). Again, if the institutional population decreases, the Department may be able to reimburse the counties with existing funds. If the institutional population remains stable, or increases, the cost noted above would be additional to the State.

Nine additional probation/parole officers would be needed to maintain the current staffing level for work release. This would cost \$270,090 per year (\$29,010 for salary and \$1,000 for support per each staff). Staffing cost for one-half of a year is \$135,045.

Counties will experience a savings of \$8,550 (\$150 x 57 probation clients) due to not transporting clients to Oakdale.

Sources: Department of Corrections
Iowa State Association of Counties

(LSB 2072sv, 8AL)

SENATE FILE 471

S-3532

1 Amend Senate File 471 as follows:

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

4 "Section 1. Section 356.15, Code 1989, is amended
5 to read as follows:

6 356.15 EXPENSES.

7 All charges and expenses for the safekeeping and
8 maintenance of prisoners shall be allowed by the board
9 of supervisors, except those committed or detained by
10 the authority of the courts of the United States, in
11 which cases the United States must pay such expenses
12 to the county, and those committed for violation of a
13 city ordinance, in which case the city shall pay
14 expenses to the county. If a parole or probation
15 violator is committed to a county jail pursuant to
16 section 908.9 or 908.11, the county shall be
17 reimbursed by the department of corrections in
18 accordance with section 906.18. If the violator is
19 granted work release from the county jail, the
20 violator is liable to the county for the cost of the
21 violator's board as provided in section 356.30.
22 However, the state shall reimburse the county for the
23 balance of the cost of confining the violator.

24 Sec. 2. Section 905.1, subsection 2, Code 1989, is
25 amended to read as follows:

26 2. "Community-based correctional program" means
27 correctional programs and services designed to
28 supervise and assist individuals who are charged with
29 or have been convicted of a felony, an aggravated
30 misdemeanor or a serious misdemeanor, or who are on
31 probation or parole in lieu of or as a result of a
32 sentence of incarceration imposed upon conviction of
33 any of these offenses, or who have been confined in a
34 county jail as a result of revocation of probation or
35 parole for conviction and sentence of a class "C" or
36 "D" felony or aggravated misdemeanor, or who are
37 contracted to the district department for supervision
38 and housing while on work release.

39 Sec. 3. NEW SECTION. 906.18 CONFINEMENT OF
40 PAROLE AND PROBATION VIOLATORS BY COUNTIES --
41 REIMBURSEMENT.

42 1. A county may enter into a chapter 28E agreement
43 with the department of corrections for the confinement
44 of parole and probation violators pursuant to section
45 908.9 or 908.11, and the agreement may contain
46 provisions relating to reimbursement to the county for
47 confining the violators, and any other terms the
48 contracting parties deem appropriate.

49 2. The department of corrections and counties may
50 commence negotiation and execution of the chapter 28E

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1 agreements provided in subsection 1 on or after July
2 1, 1989.

3 3. Parole and probation violators may be confined
4 in county jails pursuant to sections 908.9 and 908.11
5 commencing January 1, 1990.

6 Sec. 4. Section 908.9, Code 1989, is amended to
7 read as follows:

8 908.9 DISPOSITION OF VIOLATOR.

9 1. If the parole of a parole violator is revoked,
10 the violator shall remain in the custody of the Iowa
11 department of corrections under the terms of the
12 parolee's original commitment.

13 2. Notwithstanding subsection 1, if the parole of
14 a parole violator, originally committed to the
15 department for conviction of a class "C" or "D"
16 felony, or aggravated misdemeanor, is revoked, the
17 parole revocation officer or board panel shall
18 determine whether the violator is to remain in the
19 custody of the director of the department of
20 corrections under the terms of the parolee's original
21 commitment, or is to be confined in a county jail, for
22 a maximum period of one year, as part of the
23 violator's subsequent plan of parole or work release.
24 A violator shall be confined in a county jail only if
25 the violator is placed on work release, educational
26 work release, or in a community-based correctional
27 program and the county and the department of
28 corrections have entered into a chapter 28E agreement
29 pursuant to section 906.18. A violator assigned to
30 county jail confinement pursuant to this subsection
31 shall be transported directly to the assigned county
32 jail, and shall remain under the jurisdiction of the
33 board of parole and under the supervision and
34 direction of the judicial district department of
35 correctional services. For purposes of this
36 subsection, a violator, who has been committed to the
37 custody of the director of the department of
38 corrections upon the imposition of consecutive
39 sentences for serious misdemeanor violations and the
40 consecutive sentences exceed a total of one year,
41 shall be considered to have been convicted of an
42 aggravated misdemeanor.

43 3. If the parole of a parole violator is not
44 revoked, the parole revocation officer or board panel
45 shall order the person's release subject to the terms
46 of the person's parole with any modifications that the
47 parole revocation officer or board panel determines
48 proper.

49 Sec. 5. NEW SECTION. 908.9A CUSTODY OF PAROLE OR
50 PROBATION VIOLATOR.

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1 A parole or probation violator confined to a county
2 jail pursuant to section 908.9 or 908.11 shall remain
3 committed to the custody of the director of the
4 department of corrections.

5 Sec. 6. Section 908.11, Code 1989, is amended to
6 read as follows:

7 908.11 VIOLATION OF PROBATION.

8 A probation officer or the judicial district
9 department of correctional services having probable
10 cause to believe that any person released on probation
11 has violated the conditions of probation shall proceed
12 by arrest or summons as in the case of a parole
13 violation. The functions of the liaison officer and
14 the board of parole shall be performed by the judge or
15 magistrate who placed the alleged violator on
16 probation if that judge or magistrate is available,
17 otherwise by another judge or magistrate who would
18 have had jurisdiction to try the original offense. If
19 the probation officer proceeds by arrest, any
20 magistrate may receive the complaint, issue an arrest
21 warrant, or conduct the initial appearance and
22 probable cause hearing if it is not convenient for the
23 judge who placed the alleged violator on probation to
24 do so. The initial appearance, probable cause
25 hearing, and probation revocation hearing, or any of
26 them, may at the discretion of the court be merged
27 into a single hearing when it appears that the alleged
28 violator will not be prejudiced thereby. If the
29 violation is established, the court may continue the
30 probation with or without an alteration of the
31 conditions of probation. If the defendant is an adult
32 the court may hold the defendant in contempt of court
33 and sentence the defendant to a jail term while
34 continuing the probation, or may revoke the probation
35 and require the defendant to serve the sentence
36 imposed or any lesser sentence, and, if imposition of
37 sentence was deferred, may impose any sentence which
38 might originally have been imposed. If the defendant
39 was originally committed to the custody of the
40 department of corrections, the defendant's sentence
41 was suspended or deferred, and the defendant has been
42 placed on probation for violation of a class "C" or
43 "D" felony or an aggravated misdemeanor, and a
44 violation of probation has been established, the court
45 may revoke probation and, as an alternative to serving
46 the sentence originally imposed, require the defendant
47 to serve a maximum term of imprisonment of one year in
48 a county jail if the defendant is eligible for work-
49 release, educational work release, or a community-
50 based correctional program and the county and the

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1 department of corrections have entered into a chapter
2 28E agreement pursuant to section 906.18. A probation
3 violator confined in a county jail pursuant to this
4 section shall remain under the supervision and
5 direction of the violator's probation officer. For
6 purposes of this section, a person who receives
7 consecutive sentences for serious misdemeanor
8 violations, which sentences are not suspended and
9 exceed a total of one year, shall be considered to
10 have committed an aggravated misdemeanor."

11 2. Title page, by striking lines 3 through 6 and
12 inserting the following: "county jail, requiring
13 reimbursement to counties confining such violators,
14 and authorizing the board of parole to assign parole
15 violators to the county jail as part of a subsequent
16 plan of parole or work release."

By DONALD V. DOYLE
EUGENE FRAISE
MICHAEL E. GRONSTAL

S-3532 FILED APRIL 4, 1989

adopted 4-5-89 (p. 1189)

House Jud & Law

SENATE FILE 471
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 355)

(AS AMENDED AND PASSED BY THE SENATE APRIL 5, 1989)

ALL 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 certain felons and misdemeanants, by providing
2 for the placement of such parole or probation violators in the
3 county jail, requiring reimbursement to counties confining
4 such violators, and authorizing the board of parole to assign
5 parole violators to the county jail as part of a subsequent
6 plan of parole or work release.

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

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S.F. 471

1 Section 1. Section 356.15, Code 1989, is amended to read
2 as follows:

3 356.15 EXPENSES.

4 All charges and expenses for the safekeeping and
5 maintenance of prisoners shall be allowed by the board of
6 supervisors, except those committed or detained by the
7 authority of the courts of the United States, in which cases
8 the United States must pay such expenses to the county, and
9 those committed for violation of a city ordinance, in which
10 case the city shall pay expenses to the county. If a parole
11 or probation violator is committed to a county jail pursuant
12 to section 908.9 or 908.11, the county shall be reimbursed by
13 the department of corrections in accordance with section
14 906.18. If the violator is granted work release from the
15 county jail, the violator is liable to the county for the cost
16 of the violator's board as provided in section 356.30.
17 However, the state shall reimburse the county for the balance
18 of the cost of confining the violator.

19 Sec. 2. Section 905.1, subsection 2, Code 1989, is amended
20 to read as follows:

21 2. "Community-based correctional program" means
22 correctional programs and services designed to supervise and
23 assist individuals who are charged with or have been convicted
24 of a felony, an aggravated misdemeanor or a serious
25 misdemeanor, or who are on probation or parole in lieu of or
26 as a result of a sentence of incarceration imposed upon
27 conviction of any of these offenses, or who have been confined
28 in a county jail as a result of revocation of probation or
29 parole for conviction and sentence of a class "C" or "D"
30 felony or aggravated misdemeanor, or who are contracted to the
31 district department for supervision and housing while on work
32 release.

33 Sec. 3. NEW SECTION. 906.18 CONFINEMENT OF PAROLE AND
34 PROBATION VIOLATORS BY COUNTIES --REIMBURSEMENT.

35 1. A county may enter into a chapter 28E agreement with

1 the department of corrections for the confinement of parole
2 and probation violators pursuant to section 908.9 or 908.11,
3 and the agreement may contain provisions relating to
4 reimbursement to the county for confining the violators, and
5 any other terms the contracting parties deem appropriate.

6 2. The department of corrections and counties may commence
7 negotiation and execution of the chapter 28E agreements
8 provided in subsection 1 on or after July 1, 1989.

9 3. Parole and probation violators may be confined in
10 county jails pursuant to sections 908.9 and 908.11 commencing
11 January 1, 1990.

12 Sec. 4. Section 908.9, Code 1989, is amended to read as
13 follows:

14 908.9 DISPOSITION OF VIOLATOR.

15 1. If the parole of a parole violator is revoked, the
16 violator shall remain in the custody of the Iowa department of
17 corrections under the terms of the parolee's original
18 commitment.

19 2. Notwithstanding subsection 1, if the parole of a parole
20 violator, originally committed to the department for
21 conviction of a class "C" or "D" felony, or aggravated
22 misdemeanor, is revoked, the parole revocation officer or
23 board panel shall determine whether the violator is to remain
24 in the custody of the director of the department of
25 corrections under the terms of the parolee's original
26 commitment, or is to be confined in a county jail, for a
27 maximum period of one year, as part of the violator's
28 subsequent plan of parole or work release. A violator shall
29 be confined in a county jail only if the violator is placed on
30 work release, educational work release, or in a community-
31 based correctional program and the county and the department
32 of corrections have entered into a chapter 28E agreement
33 pursuant to section 906.18. A violator assigned to county
34 jail confinement pursuant to this subsection shall be
35 transported directly to the assigned county jail, and shall

1 remain under the jurisdiction of the board of parole and under
2 the supervision and direction of the judicial district
3 department of correctional services. For purposes of this
4 subsection, a violator, who has been committed to the custody
5 of the director of the department of corrections upon the
6 imposition of consecutive sentences for serious misdemeanor
7 violations and the consecutive sentences exceed a total of one
8 year, shall be considered to have been convicted of an
9 aggravated misdemeanor.

10 3. If the parole of a parole violator is not revoked, the
11 parole revocation officer or board panel shall order the
12 person's release subject to the terms of the person's parole
13 with any modifications that the parole revocation officer or
14 board panel determines proper.

15 Sec. 5. NEW SECTION. 908.9A CUSTODY OF PAROLE OR
16 PROBATION VIOLATOR.

17 A parole or probation violator confined to a county jail
18 pursuant to section 908.9 or 908.11 shall remain committed to
19 the custody of the director of the department of corrections.

20 Sec. 6. Section 908.11, Code 1989, is amended to read as
21 follows:

22 908.11 VIOLATION OF PROBATION.

23 A probation officer or the judicial district department of
24 correctional services having probable cause to believe that
25 any person released on probation has violated the conditions
26 of probation shall proceed by arrest or summons as in the case
27 of a parole violation. The functions of the liaison officer
28 and the board of parole shall be performed by the judge or
29 magistrate who placed the alleged violator on probation if
30 that judge or magistrate is available, otherwise by another
31 judge or magistrate who would have had jurisdiction to try the
32 original offense. If the probation officer proceeds by
33 arrest, any magistrate may receive the complaint, issue an
34 arrest warrant, or conduct the initial appearance and probable
35 cause hearing if it is not convenient for the judge who placed

1 the alleged violator on probation to do so. The initial
2 appearance, probable cause hearing, and probation revocation
3 hearing, or any of them, may at the discretion of the court be
4 merged into a single hearing when it appears that the alleged
5 violator will not be prejudiced thereby. If the violation is
6 established, the court may continue the probation with or
7 without an alteration of the conditions of probation. If the
8 defendant is an adult the court may hold the defendant in
9 contempt of court and sentence the defendant to a jail term
10 while continuing the probation, or may revoke the probation
11 and require the defendant to serve the sentence imposed or any
12 lesser sentence, and, if imposition of sentence was deferred,
13 may impose any sentence which might originally have been
14 imposed. If the defendant was originally committed to the
15 custody of the department of corrections, the defendant's
16 sentence was suspended or deferred, and the defendant has been
17 placed on probation for violation of a class "C" or "D" felony
18 or an aggravated misdemeanor, and a violation of probation has
19 been established, the court may revoke probation and, as an
20 alternative to serving the sentence originally imposed,
21 require the defendant to serve a maximum term of imprisonment
22 of one year in a county jail if the defendant is eligible for
23 work release, educational work release, or a community-based
24 correctional program and the county and the department of
25 corrections have entered into a chapter 28E agreement pursuant
26 to section 906.18. A probation violator confined in a county
27 jail pursuant to this section shall remain under the
28 supervision and direction of the violator's probation officer.
29 For purposes of this section, a person who receives
30 consecutive sentences for serious misdemeanor violations,
31 which sentences are not suspended and exceed a total of one
32 year, shall be considered to have committed an aggravated
33 misdemeanor.

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DOYLE, CH.
GRINSTAL
GENTLEMAN

SSB 355

JUDICIARY

SENATE FILE 471
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

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

A BILL FOR

1 An Act relating to certain felons and misdemeanants, by providing
2 for the placement of such parole or probation violators in the
3 county jail, providing for placement following county jail
4 confinement, requiring reimbursement to counties holding such
5 violators, and authorizing the sentencing court to sentence
6 such offenders to imprisonment in the county jail.

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

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1 Section 1. Section 356.15, Code 1989, is amended to read
2 as follows:

3 356.15 EXPENSES.

4 All charges and expenses for the safekeeping and
5 maintenance of prisoners shall be allowed by the board of
6 supervisors, except those committed or detained by the
7 authority of the courts of the United States, in which cases
8 the United States must pay such expenses to the county, and
9 those committed for violation of a city ordinance, in which
10 case the city shall pay expenses to the county. If a parole
11 or probation violator is committed to a county jail, the
12 county shall be reimbursed by the department of corrections in
13 accordance with section 906.18. If the violator is granted
14 work release from the county jail, the violator is liable to
15 the county for the cost of the violator's board as provided in
16 section 356.30. However, the state shall reimburse the county
17 for the balance of the cost of confining the violator.

18 Sec. 2. NEW SECTION. 902.4A REVIEW OF PAROLE VIOLATION
19 AND RECONSIDERATION OF SENTENCE.

20 Upon receipt of the notice as provided in section 908.9,
21 the court may order the person to be returned to the court, at
22 which time the court may review the order revoking the
23 violator's parole. The district court retains jurisdiction
24 for the limited purpose of conducting such review and
25 determining whether the best interest of society and the
26 violator would be served by committing the violator to serve a
27 maximum term of imprisonment of one year in the county jail
28 for violating the parole plan or conditions of parole, rather
29 than serving the terms of the parolee's original commitment.
30 The court shall enter the appropriate order, which shall be
31 delivered to the defendant personally or by certified mail.
32 The court's decision whether or not to review the parole
33 revocation order is not subject to appeal. If the court
34 declines to review the parole revocation order, the court
35 shall notify the parole revocation officer or board panel

1 within thirty days of receipt of the notice as provided in
2 section 908.9.

3 Sec. 3. Section 905.1, subsection 2, Code 1989, is amended
4 to read as follows:

5 2. "Community-based correctional program" means
6 correctional programs and services designed to supervise and
7 assist individuals who are charged with or have been convicted
8 of a felony, an aggravated misdemeanor or a serious
9 misdemeanor, or who are on probation or parole in lieu of or
10 as a result of a sentence of incarceration imposed upon
11 conviction of any of these offenses, or who have been confined
12 in a county jail as a result of revocation of probation or
13 parole for conviction and sentence of a class "C" or "D"
14 felony or aggravated misdemeanor, or who are contracted to the
15 district department for supervision and housing while on work
16 release.

17 Sec. 4. NEW SECTION. 906.18 CONFINEMENT OF PAROLE
18 VIOLATORS BY COUNTIES -- REIMBURSEMENT.

19 The department of corrections and each county shall enter
20 into a chapter 28E agreement for reimbursement to the county
21 for the confinement of parole and probation violators.

22 Sec. 5. Section 907.3, subsection 3, Code 1989, is amended
23 to read as follows:

24 3. By record entry at the time of or after sentencing, the
25 court may suspend do any of the following:

26 a. Suspend the sentence and place the defendant on
27 probation upon such terms and conditions as it may require
28 including commitment to an alternate jail facility or a
29 community correctional residential treatment facility for a
30 specific number of days to be followed by a term of probation
31 as specified in section 907.7. A person so committed who has
32 probation revoked shall be given credit for such time served.

33 b. If the defendant is being sentenced for a class "C" or
34 "D" felony, or aggravated misdemeanor, impose the sentence as
35 provided by law, suspend the sentence except for a maximum

1 period of one year, and order the defendant to serve a maximum
2 term of imprisonment of one year in the county jail.

3 Sec. 6. Section 908.5, Code 1989, is amended to read as
4 follows:

5 908.5 DISPOSITION.

6 If the parole revocation officer determines that the parole
7 should not be revoked, the parole revocation officer shall
8 issue an order reinstating the parole upon terms and
9 conditions the parole revocation officer shall determine,
10 including the transfer of the parolee to work release if
11 appropriate. If the parole revocation officer determines that
12 the parole should be revoked, the parole revocation officer
13 shall issue an order revoking-the-parole in accordance with
14 section 908.9, subsection 1 or 2. The order of the parole
15 revocation officer shall contain findings of fact, conclusions
16 of law, and a disposition of the matter.

17 Sec. 7. Section 908.9, Code 1989, is amended to read as
18 follows:

19 908.9 DISPOSITION OF VIOLATOR.

20 1. If the parole of a parole violator is revoked, the
21 violator shall remain in the custody of the Iowa department of
22 corrections under the terms of the parolee's original
23 commitment.

24 2. Notwithstanding subsection 1, if the parole of a parole
25 violator, originally committed to the department for
26 conviction of a class "C" or "D" felony, or aggravated
27 misdemeanor, is revoked, the parole revocation officer or
28 board panel shall determine whether the violator is to remain
29 in the custody of the director of the department of
30 corrections under the terms of the parolee's original
31 commitment, or is to be returned to the district court for
32 hearing and disposition pursuant to section 902.4A. Notice of
33 such determination shall be provided to the district court
34 within ten days of the determination and the court may order
35 the parole violator to be returned to court for review of the

1 parole revocation order.

2 3. If the parole of a parole violator is not revoked, the
3 parole revocation officer or board panel shall order the
4 person's release subject to the terms of the person's parole
5 with any modifications that the parole revocation officer or
6 board panel determines proper.

7 Sec. 8. NEW SECTION. 908.9A CUSTODY OF PAROLE OR
8 PROBATION VIOLATOR.

9 A parole or probation violator confined to a county jail
10 pursuant to section 902.4A shall remain committed to the
11 custody of the director of the department of corrections.

12 Sec. 9. Section 908.11, Code 1989, is amended to read as
13 follows:

14 908.11 VIOLATION OF PROBATION.

15 A probation officer or the judicial district department of
16 correctional services having probable cause to believe that
17 any person released on probation has violated the conditions
18 of probation shall proceed by arrest or summons as in the case
19 of a parole violation. The functions of the liaison officer
20 and the board of parole shall be performed by the judge or
21 magistrate who placed the alleged violator on probation if
22 that judge or magistrate is available, otherwise by another
23 judge or magistrate who would have had jurisdiction to try the
24 original offense. If the probation officer proceeds by
25 arrest, any magistrate may receive the complaint, issue an
26 arrest warrant, or conduct the initial appearance and probable
27 cause hearing if it is not convenient for the judge who placed
28 the alleged violator on probation to do so. The initial
29 appearance, probable cause hearing, and probation revocation
30 hearing, or any of them, may at the discretion of the court be
31 merged into a single hearing when it appears that the alleged
32 violator will not be prejudiced thereby. If the violation is
33 established, the court may continue the probation with or
34 without an alteration of the conditions of probation. If the
35 defendant is an adult the court may hold the defendant in

1 contempt of court and sentence the defendant to a jail term
2 while continuing the probation, or may revoke the probation
3 and require the defendant to serve the sentence imposed or any
4 lesser sentence, and, if imposition of sentence was deferred,
5 may impose any sentence which might originally have been
6 imposed. If the defendant's sentence was suspended or
7 deferred and the defendant has been placed on probation for
8 violation of a class "C" or "D" felony, or an aggravated
9 misdemeanor, and a violation of probation has been
10 established, the court may revoke probation and, as an
11 alternative to serving the sentence originally imposed,
12 require the defendant to serve a maximum term of imprisonment
13 of one year in the county jail.

14 EXPLANATION

15 This bill provides that persons committed to the custody of
16 the director of the department of corrections for conviction
17 of a class "C" or "D" felony, or an aggravated misdemeanor,
18 who violate their parole plan or conditions of parole, may be
19 committed by the district court to imprisonment in the county
20 jail for a maximum period of one year. These persons may be
21 place in a community-based correctional program upon release
22 from county jail confinement. The alternative sentence to the
23 county jail is also applicable to offenders who violate the
24 terms of their probation. The county holding such parole or
25 probation violators is to be reimbursed by the department of
26 corrections. The district court is granted limited
27 jurisdiction to review such parole violations. The bill may
28 contain a state mandate as defined in chapter 25B.

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