

Re Judiciary 5/28 Re Pass 4/3

FILED MAR 14 1941

SENATE FILE 384  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 99)

Passed Senate, Date 3/25/41 (p. 838) Passed House, Date \_\_\_\_\_  
Vote: Ayes 48 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to certain statutory provisions concerning the  
2 department of corrections.

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

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SF 384

3546 ?  
1 Section 1. Section 246.206, subsection 1, Code 1991, is  
2 amended to read as follows:

3 1. The correctional release center at Newton shall be  
4 utilized for the preparation of inmates of the correctional  
5 institutions for discharge, work release, or parole. The  
6 director may transfer an inmate of a correctional institution  
7 ~~within-ninety-days-of-the-inmate's-release-from-custody~~ to the  
8 correctional release center for intensive training to assist  
9 the inmate in the transition to civilian living. The statutes  
10 applicable to an inmate at the corrective institution from  
11 which transferred shall remain applicable during the inmate's  
12 stay at the correctional release center.

3546 ?  
13 Sec. 2. Section 907.9, unnumbered paragraph 2, Code 1991,  
14 is amended to read as follows:

15 A probation officer or the director of the judicial  
16 district department of correctional services who acts in  
17 compliance with this section is acting in the course of the  
18 person's official duty and is not personally liable, either  
19 civilly or criminally, for the acts of a person discharged  
20 from probation by the officer after such discharge, unless the  
21 discharge constitutes willful disregard of the person's duty.

3546 ?  
22 EXPLANATION

23 The bill contains several statutory changes relating to the  
24 department of corrections. The bill specifies that the  
25 correctional release center at Newton shall be used for the  
26 preparation of inmates for work release. The bill eliminates  
27 the 90-day deadline for the transfer of an inmate from a  
28 correctional institution to the correctional release center  
29 for training relating to the transition to civilian living.  
30 In addition, the bill provides that a community-based  
31 corrections district director performing duties relating to  
32 discharge from probation under section 907.9 is exempt from  
33 liability for the acts of the person discharged, unless the  
34 discharge constitutes willful disregard of duty.

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SENATE FILE 384  
FISCAL NOTE

A fiscal note for Amendment H - 3546 to Senate File 384 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 H - 3546 imposes the death penalty for capital murder, which is first degree murder committed by a person who has previously committed a Class A felony or a person who commits a Class A felony in the course of the murder. Class A felonies include first degree murder, first degree sexual abuse, and first degree kidnapping. The sentencing proceeding is conducted separately from the trial. The death penalty sentence is reviewed automatically by the Supreme Court. If the jury fails to unanimously agree or if the Supreme Court determines that error was made in the sentencing proceeding, the penalty is life imprisonment. If affirmed by the Supreme Court, the penalty is accomplished by lethal injection. The defendant must be at least 16 years old at the time the offense was committed in order to receive the sentence of death. The death penalty may be imposed only for offenses which occur on or after July 1, 1991.

Assumptions

1. Implementation of the death penalty would result in death row offenders being housed separately from the general inmate population and would require additional correctional officers, counselors, and clergy.
2. The executioner would be under contract on a per diem basis.
3. The average time served in prison pending the exhaustion of the appeals process is approximately 8 years.
4. There is no increase in the prison's support budget for housing the inmate, assuming the death row inmate would have been sentenced to life in prison if the death penalty was not available.
5. There would be additional costs on the court system for more hearings and reviews.
6. There would be additional costs for the counties to house the defendant during the pre-trial and trial phase, and for investigation and prosecution.
7. The average cost per day for county confinement is \$39.
8. The defendant would not be eligible for pre-trial release.
9. The defendant would remain in jail from the time of arrest until conviction. The average capital trial lasts approximately 30 days.
10. The average time served in jail pending sentencing for Class A felony defendants is 7.6 months. The defendant for the death penalty would spend a similar amount of time in jail pending sentencing.
11. The counties would incur additional costs for prosecuting the defendant.
12. There would be additional costs for the Attorney General's Office for prosecution. The State would handle the appeal, and would assist the county attorney during the prosecution phase.
13. There would be additional costs for indigent defense, as generally most

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capital defendants are indigent. The Department of Inspections is unwilling or unable to provide an estimate for the increased costs of indigent defense for imposing the death penalty. Therefore, the assumption is that the costs for indigent defense are at least the same as the cost of the State's prosecution.

### Fiscal Impact

#### Department of Corrections Costs:

Renovation of Cellhouse 297 at Ft. Madison = \$50,000 (one-time cost).  
13 additional staff = \$407,200.

Equipment: \$20,000 for lethal injection (one-time costs).

Executioner's compensation = \$250 per night.

First year cost estimate: \$427,450. This figure assumes the executioner will be paid for 1 night only. Since many executions are delayed by last minute stays for appeal, an executioner may be called more than once to complete the task.

#### Judicial Department Costs:

The Judicial Department has provided a cost estimate of \$33,000 for 1 death penalty case. These figures include jury compensation and mileage, salary costs for the judge and staff, providing a complete record and transcript of the trial court proceeding, and costs associated with the Supreme Court review. This figure includes costs of trial, appeals, post-conviction proceedings, and re-trying the case (remanding back to the trial court). This figure does not address the issue of the need for additional judgeships if a significant number of defendants are prosecuted under the death penalty and the case proceeds to trial. It is not known how long it would take to have a significant number of such defendants. However, in future fiscal years it may be necessary to establish at least 1 additional District Judgeship. The cost of this judgeship is estimated to be \$142,200 (FY 1991 costs). This figure includes salaries, benefits and support for the District Judge and his or her staff.

#### County Confinement Costs:

The county would hold the defendant in jail from the time of arrest until sentenced to prison. The average time served in jail is estimated to be 270 days (240 days pending trial + 30 days for the trial). County costs of confinement are estimated to be \$10,530 (\$39 per day x 270 days) for each capital defendant.

#### Prosecution and Defense Costs:

Legal costs for the county and the Attorney General's Office are estimated at \$150,000 each (\$300,000 total) for prosecution. The Attorney General's Office has estimated the cost of the appeal at \$500,000.

Assuming the defense costs would at least be equal to the prosecution costs would result in \$300,000 for 1 case. Appeals are separate items. A

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appeal costs are similar for prosecution and defense, this would be an additional \$500,000 for indigent defense.

Costs for prosecution = \$300,000.

Costs for defense = \$300,000 (indigent defense costs).

Costs for appeal = \$1,000,000 (Attorney General's Office and indigent defense costs).

The cost for implementing the death penalty in Iowa is approximately \$1.9 million for the State and \$160,500 for the county for the first defendant.

Sources: Iowa Department of Corrections

Iowa Judicial Department

Iowa Department of Human Rights

Iowa State Association of Counties

Iowa Department of Justice

Iowa Department of Inspections and Appeals

Greenfield, Lawrence A. "Capital Punishment 1989",

U.S. Department of Justice, Bureau of Justice Statistics  
Bulletin

Spangenberg and Walsh. "Capital Punishment or Life Imprisonment?

Some Cost Considerations", Loyola of Los Angeles Law Review

Vol. 23, No. 1, Nov. 1989

(LSB 128947, BAL)

FILED APRIL 9, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

## SENATE FILE 384

H-3546

1 Amend Senate File 384, as passed by the Senate, as  
2 follows:

3 1. By inserting before page 1, line 1 the  
4 following:

5 "Section 1. Section 246.105, Code 1991, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 9A. Adopt rules pursuant to  
8 chapter 17A pertaining to executions of persons  
9 convicted of capital murder."

10 2. Page 1, by inserting after line 12 the  
11 following:

12 "Sec. \_\_\_\_ . Section 701.7, Code 1991, is amended to  
13 read as follows:

14 701.7 FELONY DEFINED AND CLASSIFIED.

15 A public offense is a felony of a particular class  
16 when the statute defining the crime declares it to be  
17 a felony. Felonies are capital felonies, class "A"  
18 felonies, class "B" felonies, class "C" felonies, and  
19 class "D" felonies. ~~Where~~ if the statute defining the  
20 offense declares it to be a felony but does not state  
21 what class of felony it is or provide for a specific  
22 penalty, that felony ~~shall be~~ is a class "D" felony.

23 Sec. \_\_\_\_ . NEW SECTION. 707.1A CAPITAL MURDER.

24 1. a. A person commits capital murder if the  
25 person commits murder in the first degree pursuant to  
26 section 707.2, and the person previously has been  
27 convicted of capital murder or a class "A" felony  
28 pursuant to section 707.2, 709.2, or 710.2.

29 b. A person commits capital murder if the person  
30 commits murder in the first degree pursuant to section  
31 707.2, and the person, in the course of that murder,  
32 commits another capital murder or another class "A"  
33 felony pursuant to section 707.2, 709.2, or 710.2.

34 2. Capital murder is a felony punishable either by  
35 death or by life imprisonment, as determined pursuant  
36 to sections 115 through 118 of this Act. However, if  
37 a person is convicted of capital murder who was under  
38 the age of sixteen years at the time the offense was  
39 committed, the person shall be sentenced to life  
40 imprisonment.

41 3. If a defendant is sentenced to death pursuant  
42 to sections 115 through 118 of this Act, the sentence  
43 shall be executed by the administration of a lethal  
44 injection pursuant to rules adopted by the board of  
45 corrections. For the purposes of this section,  
46 "lethal injection" means a continuous intravenous  
47 injection of a lethal quantity of sodium thiopental or  
48 other equally or more effective substance sufficient  
49 to cause death.

50 Sec. \_\_\_\_ . Section 707.2, unnumbered paragraph 1,

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1 Code 1991, is amended to read as follows:

2 A person commits murder in the first degree when  
3 the person commits murder which is not capital murder  
4 and which is committed under any of the following  
5 circumstances:

6 Sec. \_\_\_\_ . Section 707.3, unnumbered paragraph 1,  
7 Code 1991, is amended to read as follows:

8 A person commits murder in the second degree when  
9 the person commits murder which is not capital murder  
10 or murder in the first degree.

11 Sec. \_\_\_\_ . Section 707.4, unnumbered paragraph 2,  
12 Code 1991, is amended to read as follows:

13 Voluntary manslaughter is an included offense under  
14 an indictment for capital murder or murder in the  
15 first or second degree.

16 Sec. \_\_\_\_ . Section 707.5, unnumbered paragraph 1,  
17 Code 1991, is amended to read as follows:

18 Involuntary manslaughter as defined in this section  
19 is an included offense under an indictment for capital  
20 murder or murder in the first or second degree or  
21 voluntary manslaughter.

22 Sec. \_\_\_\_ . Section 802.1, Code 1991, is amended to  
23 read as follows:

24 802.1 MURDER.

25 A prosecution for capital murder or murder in the  
26 first or second degree may be commenced at any time  
27 after the death of the victim.

28 Sec. \_\_\_\_ . Section 811.1, subsections 1 and 2, Code  
29 1991, are amended to read as follows:

30 1. A defendant awaiting judgment of conviction and  
31 sentencing following either a plea or verdict of  
32 guilty of a class "A" felony, capital murder, murder,  
33 felonious assault, sexual abuse in the second degree,  
34 sexual abuse in the third degree, kidnapping, robbery  
35 in the first degree, arson in the first degree, or  
36 burglary in the first degree, or any felony included  
37 in section 204.401, subsection 1, paragraph "a".

38 2. A defendant appealing a conviction of a class  
39 "A" felony, capital murder, murder, felonious assault,  
40 sexual abuse in the second degree, sexual abuse in the  
41 third degree, kidnapping, robbery in the first degree,  
42 arson in the first degree, or burglary in the first  
43 degree, or any felony included in section 204.401,  
44 subsection 1, paragraph "a".

45 Sec. \_\_\_\_ . Section 811.1, Code 1991, is amended by  
46 adding the following new subsection:

47 NEW SUBSECTION. 4. A defendant charged with  
48 capital murder, if upon hearing held under the  
49 conditions required by section 812.2, the prosecuting  
50 attorney establishes by clear and convincing evidence

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1 that the release of the defendant from custody is  
2 likely to pose a danger of physical harm to another  
3 person. The court shall consider all lawfully  
4 obtained evidence relevant to the required  
5 determination, whether or not the evidence would be  
6 admissible at trial, but testimony of the person  
7 charged is not admissible at a subsequent trial on the  
8 issue of guilt of the offense charged or of any other  
9 offense.

10 Sec. \_\_\_\_ . NEW SECTION. 814.28 REVIEW OF DEATH  
11 SENTENCE.

12 1. In a case in which a sentence of death is  
13 imposed, the supreme court shall automatically review  
14 the judgment and sentence. The case shall not be  
15 transferred to the court of appeals.

16 2. A review by the supreme court of a judgment and  
17 sentence imposing the punishment of death has priority  
18 over all other criminal and other actions pending  
19 before the supreme court.

20 3. The supreme court shall review the trial and  
21 judgment, and separately shall review the sentencing  
22 proceeding. Upon determining that errors did not  
23 occur at the trial requiring reversal or modification  
24 of the judgment, the supreme court shall proceed to  
25 determine if the sentence of death is lawfully  
26 imposed. In its review of the sentencing proceeding  
27 the supreme court shall determine all of the  
28 following:

29 a. Whether the sentence of death was imposed  
30 capriciously or under the influence of prejudice or  
31 other arbitrary factor.

32 b. Whether the special verdicts returned under  
33 section 115, subsection 2 of this Act, are supported  
34 by the evidence.

35 c. Whether the sentence of death is excessive or  
36 disproportionate to the penalty imposed in similar  
37 cases, considering both the crime and the defendant.

38 4. If the supreme court determines that the  
39 sentence of death was not lawfully imposed the court  
40 shall set aside the sentence and shall remand the case  
41 to the trial court for imposition of a sentence of  
42 life imprisonment.

43 5. If the supreme court affirms the judgment and  
44 sentence of death, the clerk of the supreme court  
45 shall certify the judgment of the supreme court under  
46 the seal of the court to the clerk of the trial court.

47 Sec. \_\_\_\_ . NEW SECTION. 901.11 CAPITAL MURDER  
48 PROCEEDINGS.

49 1. If a charge of capital murder is submitted to  
50 the jury or court, but the prosecuting attorney waives

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1 the death penalty, upon a verdict of guilty, the court  
2 shall sentence the defendant to life imprisonment. If  
3 the prosecuting attorney waives the death penalty, the  
4 court shall follow the sentencing procedures set forth  
5 in rule of criminal procedure 22, Iowa court rules,  
6 third edition, and need not follow the special  
7 sentencing procedures provided for capital murder  
8 cases.

9 2. If capital murder is charged, but the charge is  
10 not submitted to the court or jury, or the court or  
11 jury finds the defendant guilty of another offense,  
12 upon conviction of the other charge, the court shall  
13 follow the sentencing procedures set forth in rule of  
14 criminal procedure 22, Iowa court rules, third  
15 edition, concerning sentencing for the offense, rather  
16 than the sentencing procedures provided for capital  
17 murder cases.

18 3. Capital murder proceedings shall be conducted  
19 in bifurcated proceedings before the same trier of  
20 fact. During the initial proceeding, the jury, or the  
21 court, if the defendant waives the right to a jury  
22 trial, shall decide only whether the defendant is  
23 guilty or not guilty of any submitted offense. The  
24 issue of punishment shall not be submitted during the  
25 initial proceeding.

26 Upon a verdict of guilty to a capital murder  
27 charge, a separate sentencing proceeding shall be  
28 conducted as provided in sections 115 through 118 of  
29 this Act. If a defendant enters a plea of guilty to a  
30 capital murder charge, the court shall conduct a  
31 separate sentencing proceeding as provided in sections  
32 115 through 118 of this Act.

33 Sec. \_\_\_\_ . NEW SECTION. 902.12 CAPITAL MURDER.

34 If a person is to be sentenced to life imprisonment  
35 under section 115, subsection 5 of this Act, nothing  
36 in chapters 901 through 909, pertaining to deferred  
37 judgment, deferred sentence, suspended sentence, or  
38 reconsideration of sentence, applies, and the person  
39 shall not be released on parole unless the governor  
40 commutes the person's sentence to a term of years and  
41 shall not otherwise be released from confinement  
42 unless the governor pardons the person."

43 3. Page 1, by inserting after line 21 the  
44 following:

45 "Sec. \_\_\_\_ . Rules of criminal procedure, Iowa court  
46 rules, third edition, are amended by adding sections  
47 115 through 118 of this Act.

48 Sec. 115. NEW RULE. CAPITAL MURDER -- PROCEDURE.

49 1. Upon a finding or plea that a defendant is  
50 guilty of capital murder, the court shall conduct a

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1 separate sentencing proceeding to determine whether  
2 the defendant shall be sentenced to death or to life  
3 imprisonment. The proceeding shall be conducted in  
4 the trial court before the trial jury, or the court if  
5 there is no jury, as soon as practicable. In the  
6 proceeding, additional evidence may be presented as to  
7 any matter which is relevant to the sentence. The  
8 court shall receive when offered any evidence that is  
9 required by the rules of criminal procedure. This  
10 subsection does not authorize the introduction of any  
11 evidence secured in violation of the Constitution of  
12 the United States or of the Constitution of the State  
13 of Iowa. The state and the defendant or the  
14 defendant's counsel shall be permitted to cross-  
15 examine witnesses and to present argument for or  
16 against a sentence of death.

17 2. On conclusion of the presentation of the  
18 evidence, the court shall submit each of the following  
19 issues to the jury:

20 a. Whether the conduct of the defendant that  
21 caused the death of the deceased was committed  
22 willfully, deliberately, and with the reasonable  
23 expectation that the death of the deceased or another  
24 would result.

25 b. Whether a probability exists that in the future  
26 the defendant would commit criminal acts of violence  
27 that would constitute a continuing threat to society.

28 c. Whether aggravating circumstances exist that  
29 are sufficient to outweigh any mitigating  
30 circumstances that may exist.

31 If the case is not tried to a jury, the court shall  
32 determine the issues.

33 3. The state must prove each issue in subsection 2  
34 beyond a reasonable doubt, and the jury, or the court  
35 if there is no jury, shall return a special verdict of  
36 "yes" or "no" on each issue.

37 4. If the case is tried to a jury, the court shall  
38 charge the jury that:

39 a. It shall answer any issue "yes" if it agrees  
40 unanimously.

41 b. It shall answer any issue "no" if the jurors  
42 unanimously agree that the answer is "no" or if the  
43 jurors do not unanimously agree that the answer is  
44 "yes".

45 5. If the jury, or the court if there is no jury,  
46 returns an affirmative finding on all applicable  
47 issues, the court shall sentence the defendant to  
48 death. If the jury or the court returns a negative  
49 finding on any applicable issue, the court shall  
50 sentence the defendant to the custody of the director

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1 of the department of corrections for confinement for  
2 the rest of the defendant's life.

3 6. Iowa Code chapters 901 through 909 do not apply  
4 to a conviction of capital murder if the defendant is  
5 sentenced to death.

6 Sec. 116. NEW RULE. AUTOMATIC REVIEW -- STAY OF  
7 JUDGMENT.

8 1. A judgment of conviction and sentence of death  
9 shall be reviewed automatically in the manner provided  
10 in Iowa Code section 814.28, and the Iowa supreme  
11 court has exclusive jurisdiction of the review.

12 2. Upon entry of judgment and sentence of death,  
13 the trial court shall prepare a complete record and  
14 transcript of the action in the manner provided in the  
15 rules of criminal procedure and shall docket the  
16 record and transcript with the clerk of the supreme  
17 court.

18 3. The judgment and sentence of the trial court is  
19 stayed as a matter of law from the time of its entry  
20 until the judgment of the supreme court is certified  
21 to and entered by the trial court. Upon entry of a  
22 judgment of the supreme court which affirms the  
23 conviction and sentence, the stay of the judgment and  
24 sentence terminates as a matter of law.

25 4. All court costs required due to the automatic  
26 preparation of the record and transcript, docketing  
27 with the supreme court, and stay of judgment and  
28 sentence shall be assessed to the state.

29 Sec. 117. NEW RULE. ISSUANCE OF WARRANT.

30 1. Upon entry by the trial court of the judgment  
31 of the supreme court affirming a judgment and sentence  
32 of death, a district judge shall within five days of  
33 the entry issue a warrant under the seal of the court  
34 for the execution of the sentence of death. The  
35 warrant shall specifically set forth the offense and  
36 the fact of conviction, shall state the judgment and  
37 sentence of the court, shall state that the judgment  
38 and sentence were affirmed by the supreme court and  
39 the date of entry of judgment of the supreme court in  
40 the trial court, and shall specify the date fixed for  
41 execution of the defendant which shall be not less  
42 than fifty nor more than sixty days after the date of  
43 entry in the trial court of the judgment of the  
44 supreme court affirming the judgment and sentence of  
45 death. The warrant shall be directed to the director  
46 of the department of corrections commanding the  
47 director to cause the warrant to be executed on the  
48 date specified. The trial court shall deliver the  
49 warrant to the sheriff of the county in which judgment  
50 of conviction was entered and the sheriff shall

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1 deliver the warrant and the defendant to the custody  
2 of the department of corrections for confinement in  
3 the state penitentiary. The director of the  
4 department of corrections shall acknowledge receipt of  
5 the warrant and the defendant, and the sheriff shall  
6 return the acknowledgment to the office of the clerk  
7 of the trial court from which the warrant was issued.

8 2. Immediately after issuance of a warrant  
9 ordering a sentence of death, the clerk of the trial  
10 court issuing the warrant shall transmit by mail to  
11 the governor a copy of the indictment, the plea, the  
12 verdict and special findings, the affirmation of  
13 judgment and sentence by the supreme court, and the  
14 complete transcript of the trial court.

15 Sec. 118. NEW RULE. EVIDENCE AT SENTENCING IN  
16 CAPITAL MURDER CASES -- REQUIRED INFORMATION.

17 1. At a reasonable time before the commencement of  
18 sentencing proceedings in a capital murder case, each  
19 party shall file and serve upon the other party the  
20 following:

21 a. A list of all aggravating or mitigating  
22 circumstances which the party intends to prove during  
23 the sentencing proceedings.

24 b. The names of all persons whom the party intends  
25 to call as witnesses during the sentencing  
26 proceedings.

27 c. Notwithstanding rule 13, copies, or for  
28 inspection purposes, the location, of all documents,  
29 including books, papers, writings, drawings, graphs,  
30 charts, photographs, phonorecords, and other data  
31 compilations from which information can be obtained,  
32 or other objects which the party intends to offer into  
33 evidence during the sentencing proceedings. If copies  
34 are not supplied to opposing counsel, the party shall  
35 make the items available for inspection and copying  
36 without order of the court.

37 2. In proceedings to determine whether the  
38 sentence shall be death or life imprisonment, evidence  
39 may be presented as to any matter which the trial  
40 court deems relevant to sentence, including but not  
41 limited to the nature, circumstances, and manner of  
42 completion of the murder, and the defendant's  
43 character, background, history, and mental and  
44 physical condition. The trial court shall admit any  
45 relevant evidence respecting any aggravating or  
46 mitigating circumstances, if the party has included  
47 the circumstance on a list provided pursuant to this  
48 rule, or good cause is shown for the failure to do so.

49 Sec. \_\_\_\_ . APPLICABILITY. This Act applies to  
50 offenses committed on or after the effective date of

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1 this Act."

2 4. Title page, line 2, by inserting after the  
3 word "corrections" the following: ", applying the  
4 death penalty or life imprisonment, by establishing  
5 the offense of capital murder, by providing a minimum  
6 age for imposition of a death sentence, by providing  
7 for review of death sentences, by providing for  
8 execution by lethal injection, by amending the rules  
9 of criminal procedure, and by providing for the Act's  
10 applicability".

11 5. By renumbering as necessary.

By KREBSBACH of Mitchell

BANKS of Plymouth

GRUBBS of Scott

JOHNSON of Clinton

McKEAN of Jones

RENKEN of Grundy

HAHN of Muscatine

IVERSON of Wright

CORBETT of Linn

MILLAGE of Scott

BRANSTAD of Winnebago

BARTZ of Worth

H-3546 FILED APRIL 8, 1991

Fuhrman, Ch.  
Horn  
Hester

SSB 99  
JUDICIARY

SENATE/HOUSE FILE 384  
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 certain statutory provisions concerning the  
2 department of corrections.

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

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S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 246.203, Code 1991, is amended to read  
2 as follows:

3 246.203 NORTH CENTRAL CORRECTIONAL FACILITY AT ROCKWELL  
4 CITY.

5 The state correctional facility at Rockwell City shall be  
6 utilized as a medium-security correctional facility for men.

7 Sec. 2. Section 246.204, Code 1991, is amended to read as  
8 follows:

9 246.204 MOUNT PLEASANT CORRECTIONAL FACILITY -- SPECIAL  
10 TREATMENT UNIT.

11 The correctional facility at Mount Pleasant shall be  
12 utilized as a medium-security facility for men primarily for  
13 treatment of inmates who exhibit treatable personality  
14 disorders, with or without accompanying history of drug or  
15 alcohol abuse. Such inmates may apply for and upon their  
16 application may be selected for treatment by the staff of the  
17 treatment facility at Mount Pleasant in accordance with  
18 section 246.303.

19 Sec. 3. Section 246.206, subsection 1, Code 1991, is  
20 amended to read as follows:

21 1. The correctional release center at Newton shall be  
22 utilized for the preparation of inmates of the correctional  
23 institutions for discharge, work release, or parole. The  
24 director may transfer an inmate of a correctional institution  
25 ~~within-ninety-days-of-the-inmate's-release-from-custody~~ to the  
26 correctional release center for intensive training to assist  
27 the inmate in the transition to civilian living. The statutes  
28 applicable to an inmate at the corrective institution from  
29 which transferred shall remain applicable during the inmate's  
30 stay at the correctional release center.

31 Sec. 4. Section 907.9, unnumbered paragraph 2, Code 1991,  
32 is amended to read as follows:

33 A probation officer or the director of the judicial  
34 district department of correctional services who acts in  
35 compliance with this section is acting in the course of the

1 person's official duty and is not personally liable, either  
2 civilly or criminally, for the acts of a person discharged  
3 from probation by the officer after such discharge, unless the  
4 discharge constitutes willful disregard of the person's duty.

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## EXPLANATION

6 The bill contains several statutory changes relating to the  
7 department of corrections. The bill removes the statutory  
8 specification that the state correctional facilities at  
9 Rockwell City and Mount Pleasant are medium security  
10 facilities. The bill also specifies that the correctional  
11 release center at Newton shall be used for the preparation of  
12 inmates for work release. The bill eliminates the 90-day  
13 deadline for the transfer of an inmate from a correctional  
14 institution to the correctional release center for training  
15 relating to the transition to civilian living. In addition,  
16 the bill provides that a community-based corrections district  
17 director performing duties relating to discharge from  
18 probation under section 907.9 is exempt from liability for the  
19 acts of the person discharged, unless the discharge  
20 constitutes willful disregard of duty.

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## BACKGROUND STATEMENT

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## SUBMITTED BY THE AGENCY

23 These changes are technical in nature, are designed to cor-  
24 rect inconsistencies in current Code language, and bring them  
25 into line with current practice.

26 The Code of Iowa currently specifies that the facilities at  
27 Rockwell City and Mount Pleasant are "medium security". These  
28 are the only institutions with a statutorily specified  
29 security designation. This designation is inappropriate in  
30 that the Code does not define the term "medium security" nor  
31 is there any uniformity in application of this term by the  
32 nation's various correctional jurisdictions. It should also  
33 be noted that the staffing levels and security measures at  
34 Rockwell City are not compatible with the medium security  
35 designation.

1 The changes relating to the Newton facility reflect that  
2 institution's role in relation to offenders likely to be  
3 placed on work release. In addition, the "90 days"  
4 designation is inconsistent with current practice relating to  
5 release and inmate management and the cause of misconceptions  
6 among inmates.

7 The last section contains a technical correction of an  
8 omission from legislation approved in the 1990 session. It  
9 brings the language into conformity with similar language  
10 relating to discharge from parole contained in section 906.15.

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