

3/22/93 Referred from Calendars to
Judiciary Comm.
FILED 3/25 1993

SENATE FILE 292
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 206)

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

A BILL FOR

1 An Act relating to presentence investigations.

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

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1 Section 1. Section 901.2, unnumbered paragraph 1, Code
2 1993, is amended to read as follows:

3 Upon a plea of guilty, a verdict of guilty, or a special
4 verdict upon which a judgment of conviction of a public
5 offense may be rendered, the court shall receive from the
6 state, from the judicial district department of correctional
7 services, and from the defendant any information which may be
8 offered which is relevant to the question of sentencing. The
9 court may consider information from other sources.

10 Notwithstanding section 13.10, the court may determine if the
11 defendant shall be required to provide a physical specimen to
12 be submitted for DNA profiling if the defendant is to be
13 placed on probation or work release. The court shall consider
14 the deterrent effect of DNA profiling, the likelihood of
15 repeated violations by the defendant, and the seriousness of
16 the offense. When funds have been allocated from the general
17 fund of the state, or funds are provided by other public or
18 private sources, the court shall order DNA profiling but only
19 when the offense is a violation of chapter 709. The court
20 shall not order a presentence investigation when the offense
21 is a class "A" felony or forcible felony. The court shall
22 order a presentence investigation when the offense is a class
23 "B," class "C," or class "D" felony. However, the
24 prosecutor and defendant may agree to waive the presentence
25 investigation for a class "B," class "C," or class "D" felony
26 shall-not-be-waived, which shall be confirmed by order of the
27 court. The court may order, with the consent of the
28 defendant, that the presentence investigation begin prior to
29 the acceptance of a plea of guilty, or prior to a verdict of
30 guilty. The court may order a presentence investigation when
31 the offense is an aggravated or serious misdemeanor only upon
32 a finding of compelling circumstances warranting an
33 investigation. Notwithstanding section 901.3, a presentence
34 investigation ordered by the court for a serious misdemeanor
35 shall include information concerning only the following:

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EXPLANATION

This bill provides that presentence investigations for offenses which are class "B", "C", or "D" felonies may be waived by court order with the consent of the prosecutor and defendant. Also, the bill provides that presentence investigations for aggravated and serious misdemeanors may only be ordered where the court finds that compelling circumstances warrant the investigation. The bill also provides that no presentence investigations shall be ordered for class "A" or forcible felonies. In addition, the bill provides that, subject to funding availability, DNA profiling will only be ordered for a violation of chapter 709 regarding sexual abuse.

GIANNETTO, CH.
VILSACK
SLIFE

SSB 206
JUDICIARY

SENATE FILE 292
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON STURGEON)

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

A BILL FOR

1 An Act relating to presentence investigations.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 901.2, unnumbered paragraph 1, Code
2 1993, is amended to read as follows:

3 Upon a plea of guilty, a verdict of guilty, or a special
4 verdict upon which a judgment of conviction of a public
5 offense may be rendered, the court shall receive from the
6 state, from the judicial district department of correctional
7 services, and from the defendant any information which may be
8 offered which is relevant to the question of sentencing. The
9 court may consider information from other sources.

10 Notwithstanding section 13.10, the court may determine if the
11 defendant shall be required to provide a physical specimen to
12 be submitted for DNA profiling if the defendant is to be
13 placed on probation or work release. The court shall consider
14 the deterrent effect of DNA profiling, the likelihood of
15 repeated violations by the defendant, and the seriousness of
16 the offense. When funds have been allocated from the general
17 fund of the state, or funds are provided by other public or
18 private sources, the court shall order DNA profiling. The
19 court shall not order a presentence investigation when the
20 offense is a class "A" felony. The court shall routinely
21 order a presentence investigation when the offense is a class
22 "B," class "C," or class "D" felony. However, the
23 prosecutor and defendant may agree to waive the presentence
24 investigation for a class "B," class "C," or class "D" felony
25 shall-not-be-waived, which shall be confirmed by order of the
26 court. The court may order, with the consent of the
27 defendant, that the presentence investigation begin prior to
28 the acceptance of a plea of guilty, or prior to a verdict of
29 guilty. The court may order a presentence investigation when
30 the offense is an aggravated or serious misdemeanor only upon
31 a finding of exigent circumstances warranting an
32 investigation. Notwithstanding section 901.3, a presentence
33 investigation ordered by the court for a serious misdemeanor
34 shall include information concerning only the following:

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EXPLANATION

1 This bill provides that presentence investigations for
2 offenses which are class "B", "C", or "D" felonies may be
3 waived by court order with the consent of the prosecutor and
4 defendant. Also, the bill provides that presentence
5 investigations for aggravated and serious misdemeanors may
6 only be ordered where the court finds that special
7 circumstances warrant the investigation. The bill also
8 provides that no presentence investigations shall be made for
9 class "A" felonies.

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SENATE FILE 293

Iowa rules of criminal or civil procedure or to preside over and control the conduct of criminal or civil hearings or trials.

AN ACT
RELATING TO THE PRESENCE OF VICTIM COUNSELORS IN PROCEEDINGS
PERTAINING TO THE OFFENSE.

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

Section 1. NEW SECTION. 910A.20 PRESENCE OF VICTIM
COUNSELORS.

1. As used in this section, unless the context otherwise
requires-

a. "Proceedings related to the offense" means any
activities engaged in or proceedings commenced by a law
enforcement agency, judicial district department of
correctional services, or a court pertaining to the commission
of a public offense against the victim, in which the victim is
present, as well as examinations of the victim in an emergency
medical facility due to injuries from the public offense which
do not require surgical procedures. "Proceedings related to
the offense" includes, but is not limited to, law enforcement
investigations, pretrial court hearings, trial and sentencing
proceedings, and proceedings relating to the preparation of a
presentence investigation report in which the victim is
present.

b. "Victim counselor" means a victim counselor as defined
in section 236A.1.

2. A victim counselor who is present as a result of a
request by a victim shall not be denied access to any
proceedings related to the offense.

3. This section does not affect the inherent power of the
court to regulate the conduct of discovery pursuant to the

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 293, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 5/28/93, 1993

TERRY E. BRANSTAD
Governor