

*Substituted by
HF 215
3-22-95
(P. 821)*

FILED MAR 15 1995

SENATE FILE 353
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 280)

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

A BILL FOR

1 An Act to require that all inmates of the institutions under the
2 control of the department of corrections perform hard labor.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 353

1 Section 1. Section 904.701, Code 1995, is amended to read
2 as follows:

3 904.701 SERVICES REQUIRED -- GRATUITOUS ALLOWANCES.

4 1. Inmates of the institutions ~~may~~ shall be required to
5 perform ~~any-proper-and-reasonable-service~~ hard labor which is
6 suited to their the inmate's age, gender, physical and mental
7 condition, strength, and attainments,~~for-the-benefit-of-the~~
8 ~~institutions-or-the-welfare-of-the-inmates,~~ either in the
9 institutions proper, or in the industries established in
10 connection with ~~them~~ the institutions, or at such other places
11 as may be determined by the director. When an inmate of an
12 institution is working outside the institution proper, the
13 inmate shall be deemed at all times to be in the actual
14 custody of the superintendent of the institution. Inmates
15 performing hard labor shall be attired in brightly colored
16 uniforms that readily identify them as inmates of correctional
17 institutions. The employment of inmates in hard labor shall
18 not displace employed workers, shall not be applied to skills,
19 crafts, or trades in which a local surplus of labor exists,
20 and shall not impair existing contracts for employment or
21 services.

22 2. The director may when practicable pay the inmate an
23 allowance as the director deems proper in view of the
24 circumstances, and in view of the cost attending the
25 maintenance of the inmate. The allowance is a gratuitous
26 payment and is not a wage arising out of an employment
27 relationship. The payment shall not exceed the amount paid to
28 free labor for a like or equivalent service.

29 3. For purposes of this section, "hard labor" means
30 physical labor performed by an inmate for at least forty hours
31 each week, which may include useful and productive work,
32 educational or treatment programs, chain gangs, menial labor,
33 any training necessary to perform any work required, and, if
34 possible, work providing an inmate with marketable vocational
35 skills. "Hard labor" does not include labor that is dangerous

1 to an inmate's life or health, unduly painful, or required to
2 be performed under conditions that would violate occupational
3 safety and health standards applicable to such labor if
4 performed by a person who is not an inmate.

5 4. Notwithstanding subsection 1, an inmate who has been
6 determined by the director to be unsuitable for the
7 performance of hard labor due to the inmate's age, gender,
8 physical or mental condition, strength, or security risk shall
9 not be required to perform hard labor.

10 5. The department shall adopt rules to implement this
11 section.

12 EXPLANATION

13 This bill requires all inmates of institutions under the
14 control of the department of corrections, who are determined
15 to be suitable to perform work, to perform hard labor. Hard
16 labor is defined to mean physical labor performed by the
17 inmate for at least forty hours each week, which may include
18 useful and productive work, chain gangs, menial labor,
19 education and treatment programs, and training necessary to
20 perform any work required. Hard labor, if possible, is to
21 provide the inmate with marketable vocational skills. Hard
22 labor is not to include labor which is dangerous to an
23 inmate's life or health, which is unduly painful, or which is
24 required to be performed under conditions that would violate
25 applicable occupational safety and health standards. Inmates
26 performing hard labor are to be dressed in brightly colored
27 uniforms. Work performed by inmates is not to displace local
28 workers or to be in an occupation, craft, or trades in which
29 there is a local surplus.

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**SENATE FILE 353
FISCAL NOTE**

The estimate for Senate File 353 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 353 requires all inmates who are physically and mentally able to perform hard labor for at least 40 hours per week. Hard labor includes useful, productive, physical labor, education or treatment programs, chain gangs, and menial labor. Training is to be provided as needed. Where possible, hard labor should teach marketable vocational skills.

Assumptions:

No cost estimate is possible until the Department of Corrections develops a plan to implement hard labor for inmates.

Correctional Impact:

This Bill will not increase the prison population. It will significantly alter the management and organization of the prisons. The Department of Corrections will be required to address a number of issues. These include:

1. There are approximately 5,000 prison inmates. An estimated 1,200 are not available for work due to health or segregation for administrative and protective reasons. Approximately 1,000 are employed full-time (7 hours per day). Another 2,100 are working part-time. The remaining 700 inmates are eligible for work. The Department of Corrections estimates it would need to create the equivalent of 1,550 new jobs for full employment.
2. Inmates generally lack vocational skills and would require significant training for many jobs.
3. Accommodations would need to be made to integrate treatment and educational programs into the work day.
4. New markets would have to be developed for expanded production and new products.
5. Goods could not be sold in interstate commerce unless certain conditions are met. For example, inmate wages and benefits would have to be comparable to other non-inmate employees if they are working in a private sector firm. No non-inmate employee can be displaced by an inmate worker.
6. For manufacturing operations, equipment and a physical plant would need to be provided.
7. Community service work programs would require transportation and security staffing of two correctional officers for every 20 to 25 inmates. It is likely additional staff would be needed. Each new correctional officer costs approximately \$35,000 per year. Each bus added for transportation to worksites costs approximately \$50,000.

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Fiscal Impact:

No estimate can be provided due to insufficient information.

Source:

Department of Corrections

(LSB 2576SV, MDF)

FILED MARCH 22, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 353

S-3176

1 Amend Senate File 353, as follows:

2 1. Page 1, by striking line 4, and inserting the
3 following:

4 "~~1. Inmates-of-the-institutions-may~~ An inmate of
5 an institution shall be required to".

6 2. Page 1, line 11, by inserting after the word
7 "director." the following: "Substantially equivalent
8 hard labor programs shall be available to both male
9 and female inmates."

10 3. Page 1, line 15, by striking the word "shall"
11 and inserting the following: "may".

12 4. Page 1, by striking line 30, and inserting the
13 following: "physical or mental labor which is
14 performed for a period of time which shall average, as
15 nearly as possible, forty hours".

16 5. Page 1, line 31, by striking the word "which"
17 and inserting the following: "and".

18 6. Page 1, line 32, by striking the words "chain
19 gangs" and inserting the following: "including highly
20 secured work groups".

21 7. Page 1, line 35, by striking the word "that"
22 and inserting the following: "which".

23 8. Page 2, line 1, by striking the words "unduly
24 painful, or" and inserting the following: "is unduly
25 painful, or is".

26 9. Page 2, line 8, by striking the word "risk"
27 and inserting the following: "status".

28 10. Page 2, by inserting after line 11, the
29 following:

30 "Sec. ____ . DEVELOPMENT OF PLAN AND TRANSITION TO
31 FULL WORK PROGRAMMING BY DEPARTMENT. Notwithstanding
32 section 1 of this Act, the department of corrections
33 shall not be required to fully implement the
34 requirements of section 904.701, until July 1, 1997.
35 However, the department shall develop and implement a
36 plan in consultation with state and local agencies and
37 members of the private sector, which provides for the
38 incremental implementation of the hard labor
39 requirements contained in section 904.701, for each
40 inmate who is physically and mentally able to perform
41 hard labor and does not present an unreasonable
42 security status, and who is not currently engaged in
43 labor meeting the requirements. The plan shall
44 provide for the full implementation of the
45 requirements of section 904.701 by July 1, 1997, and
46 may provide for the performance of work by inmates
47 both inside and outside of the institutions under the
48 control of the department. The plan shall include a
49 procedure for the determination of suitability of an
50 inmate for the performance of hard labor and, if an

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Page 2

1 inmate is found to be suitable, the placement of the
2 inmate in an appropriate hard labor program. In
3 selecting and developing work programs which are
4 included within the plan, the department shall choose
5 work programs which would require minimal additional
6 administrative costs, which minimize the need for
7 additional personnel, and which minimize the security
8 risks to the general public. The department shall
9 submit reports to the general assembly on January 1,
10 1996, and January 1, 1997, outlining the progress made
11 towards implementation of this Act. The department
12 shall also file a copy of the completed plan with the
13 general assembly on July 1, 1997."

14 11. Title page, line 2, by inserting after the
15 word "labor" the following: ", and providing
16 transition provisions".

17 12. By numbering and renumbering, as necessary.

By TONY BISIGNANO

S-3176 FILED MARCH 22, 1995

ADOPTED

(P. 821)

Disignano
Vilsack
Giannetto
McKear
Boettger

SSB-280
Judiciary

Succeeded By
SF/HE 353
SENATE FILE 353
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON GIANNETTO)

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