

REPRINTED

FILED FEB 22 1996

SENATE FILE 2289  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR to SSB 2146)

(P.818) Passed Senate, Date 3/18/96 Passed House, Date 4/17/96  
 (P.1721)  
 Vote: Ayes 48 Nays 1 Vote: Ayes 93 Nays 0  
 Approved 4/24/96

A BILL FOR

1 An Act relating to the department of corrections, including  
 2 operating while intoxicated violator facilities, inmate hard  
 3 labor, reimbursement by parole violators, tort claims  
 4 protection for certain persons, and inmate accounts.

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

6  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23

S.F. 2289

REPRINTED

1 Section 1. Section 669.2, subsection 4, unnumbered  
2 paragraph 1, Code 1995, is amended to read as follows:

3 "Employee of the state" includes any one or more officers,  
4 agents, or employees of the state or any state agency,  
5 including members of the general assembly, and persons acting  
6 on behalf of the state or any state agency in any official  
7 capacity, temporarily or permanently in the service of the  
8 state of Iowa, whether with or without compensation but does  
9 not include a contractor doing business with the state.

10 Professional personnel, including physicians, osteopathic  
11 physicians and surgeons, osteopathic physicians, optometrists,  
12 and dentists, nurses, physician assistants, and other medical  
13 personnel, who render services to patients and inmates of  
14 state institutions under the jurisdiction of the department of  
15 human services or the Iowa department of corrections are to be  
16 considered employees of the state, whether the personnel are  
17 employed on a full-time basis or render services on a part-  
18 time basis on a fee schedule or other arrangement. Criminal  
19 defendants while performing unpaid community service ordered  
20 by the district court, board of parole, or judicial district  
21 department of correctional services, or an inmate providing  
22 services pursuant to a chapter 28E agreement entered into  
23 pursuant to section 904.703, are to be considered employees of  
24 the state.

25 Sec. 2. Section 904.513, Code 1995, is amended by striking  
26 the section and inserting in lieu thereof the following:

27 904.513 ASSIGNMENT OF OWI VIOLATORS TO TREATMENT  
28 FACILITIES.

29 1. The department of corrections, in cooperation with the  
30 judicial district departments of correctional services, shall  
31 establish in each judicial district a continuum of programming  
32 for the supervision and treatment of offenders convicted of  
33 violating chapter 321J who are sentenced to the custody of the  
34 director. The continuum shall include a range of sanctioning  
35 options that include, but are not limited to, prisons and

1 residential facilities. The department of corrections shall  
2 develop standardized assessment criteria for the assignment of  
3 offenders pursuant to this chapter. Assignment shall be for  
4 the purposes of risk management and substance abuse treatment  
5 and may include education or work programs when the offender  
6 is not participating in other program components. Assignment  
7 may also be made on the basis of the offender's treatment  
8 program performance, as a disciplinary measure, for medical  
9 needs, and for space availability at community residential  
10 facilities. If there is insufficient space at a community  
11 residential facility the court may order an offender to be  
12 released to the supervision of the judicial district  
13 department of correctional services or held in jail.

14 2. Upon request by the director a county shall provide  
15 temporary confinement for offenders allegedly violating the  
16 conditions of assignment to a program under this chapter, if  
17 space is available in the county. The department shall  
18 negotiate a reimbursement rate with each county. The amount  
19 to be reimbursed shall be determined by multiplying the number  
20 of days a person is confined by the average daily cost of  
21 confining a person in the county facility as negotiated with  
22 the department. A county holding offenders in jail due to  
23 insufficient space in a community residential facility shall  
24 be reimbursed. Payment shall be made upon submission of a  
25 voucher executed by the sheriff and approved by the director.

26 3. The department shall adopt rules for the implementation  
27 of this section. The rules shall include the requirement that  
28 the treatment programs established pursuant to this chapter  
29 meet the licensure standards of the division of substance  
30 abuse for the department of public health. The rules shall  
31 also include provisions for the funding of the program by  
32 means of self-contribution by the offenders, insurance  
33 reimbursement on behalf of offenders, or other forms of  
34 funding, program structure, criteria for the evaluation of  
35 offenders and programs, and all other issues the director

1 shall deem appropriate.

2 Sec. 3. Section 904.701, subsection 3, Code Supplement  
3 1995, is amended to read as follows:

4 3. For purposes of this section, "hard labor" means  
5 physical or mental labor which is performed for a period of  
6 time which shall average, as nearly as possible, forty hours  
7 each week, and may include useful and productive work, chain  
8 gangs, menial labor, ~~substance-abuse-or-sex-offender~~ treatment  
9 or education programs, any training necessary to perform any  
10 work required, and, if possible, work providing an inmate with  
11 marketable vocational skills. "Hard labor" does not include  
12 labor which is dangerous to an inmate's life or health, is  
13 unduly painful, or is required to be performed under  
14 conditions that would violate occupational safety and health  
15 standards applicable to such labor if performed by a person  
16 who is not an inmate. In addition, education programs shall  
17 not make up more than ten hours per week of an inmate's hard  
18 labor requirement.

19 Sec. 4. Section 904.702, unnumbered paragraph 1, Code  
20 Supplement 1995, is amended to read as follows:

21 If allowances are paid pursuant to section 904.701, the  
22 director shall establish an inmate account, for deposit of  
23 those allowances and for deposit of moneys sent to the inmate  
24 from a source other than the department of corrections. The  
25 director may deduct an amount, not to exceed ten percent of  
26 the amount of the allowance, unless the inmate requests a  
27 larger amount, to be deposited into the inmate savings fund as  
28 required under section 904.508, subsection 2. The director  
29 shall deduct from the inmate account an amount established by  
30 the inmate's restitution plan of payment. The director shall  
31 also deduct from any remaining account balance an amount  
32 sufficient to pay all or part of any judgment against the  
33 inmate, including but not limited to judgments for taxes and  
34 child support, and court costs and fees assessed either as a  
35 result of the inmate's confinement or amounts required to be

1 paid under section 610A.1. Written notice of the amount of  
2 the deduction shall be given to the inmate, who shall have  
3 five days after receipt of the notice to submit in writing any  
4 and all objections to the deduction to the director, who shall  
5 consider the objections prior to transmitting the deducted  
6 amount to the clerk of the district court. The director need  
7 give only one notice for each action or appeal under section  
8 610A.1 for which periodic deductions are to be made. The  
9 director shall next deduct from any remaining account balance  
10 an amount sufficient to pay all or part of any costs assessed  
11 against the inmate for misconduct or damage to the property of  
12 others. The director may deduct from the inmate's account an  
13 amount sufficient to pay for the inmate's share of the costs  
14 of health services requested by the inmate and for the  
15 treatment of injuries inflicted by the inmate on the inmate or  
16 others. The director may deduct and disburse an amount  
17 sufficient for industries' programs to qualify under the  
18 eligibility requirements established in the Justice Assistance  
19 Act of 1984, Pub. L. No. 98-473, including an amount to pay  
20 all or part of the cost of the inmate's incarceration. The  
21 director may pay all or any part of remaining allowances paid  
22 pursuant to section 904.701 directly to a dependent of the  
23 inmate, or may deposit the allowance to the account of the  
24 inmate, or may deposit a portion and allow the inmate a  
25 portion for the inmate's personal use.

26 Sec. 5. NEW SECTION. 906.18 PAROLE VIOLATORS --  
27 REIMBURSEMENT TO DEPARTMENT.

28 The department of corrections shall arrange for the return  
29 of parolees who escape from the facility to which they are  
30 assigned or violate the conditions of supervision. The  
31 parolee shall reimburse the department of corrections for the  
32 costs incurred because of the escape or violation. The amount  
33 of reimbursement shall be the actual cost incurred by the  
34 department, and shall be credited to the support account from  
35 which the billing occurred. The department shall adopt rules

1 to implement this section.

2 EXPLANATION

3 This bill provides as follows:

4 Section 669.2, regarding tort claims against state  
5 employees, is amended to add nurses, physician assistants, and  
6 other medical providers to the definition of state employees  
7 where they render services to inmates of state institutions.

8 Section 904.513 is amended to provide that third or  
9 subsequent operating while intoxicated (OWI) offenders may be  
10 placed in prison and that county jails are required to provide  
11 temporary confinement for OWI offenders allegedly violating  
12 treatment program conditions only if space is available. The  
13 department of corrections is to negotiate a rate for  
14 reimbursing counties for this service. The bill also requires  
15 community-based corrections residential treatment facilities  
16 to meet department of public health standards for substance  
17 abuse treatment and for the adoption of rules regarding  
18 funding the OWI violator program. In addition, the bill  
19 eliminates the use of recognizance bonds for the release of  
20 OWI violators when facilities are overcrowded.

21 Section 904.701, regarding inmate hard labor, is amended to  
22 include not more than 10 hours of education programs and all  
23 treatment programs in the definition of hard labor.

24 Section 904.702, regarding deductions from inmate accounts,  
25 is amended to authorize the director of the department to  
26 deduct from an inmate's account the costs of health services  
27 requested by the inmate and for the treatment of injuries to  
28 other inmates or the inmate, whether self-inflicted or  
29 otherwise.

30 A new section, 906.18, is created to provide that inmates  
31 who escape from a facility to which they were assigned on  
32 parole shall reimburse the department for the costs incurred  
33 because of the escape.

34 This bill may contain a state mandate under chapter 25B.

35

**SENATE FILE 2289  
FISCAL NOTE**

---

The estimate for Senate File 2289 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 2289 makes a number of changes related to the Department of Corrections. The Bill:

1. Adds nurses, physician assistants, and other medical providers who provide services to inmates to the definition of State employees for purposes of tort claims.
2. Provides that third and subsequent operating while intoxicated (OWI) offenders may be subject to a range of sanctions including prison and residential facility incarceration.
3. Counties may be required to provide temporary confinement for OWI offenders allegedly violating the conditions of their program, if space is available in the county. The Department of Corrections is required to reimburse the county.
4. The Department of Corrections is required to adopt rules to meet licensure standards for substance abuse treatment programs.
5. Amends the requirements for inmate hard labor to include treatment and education programs as hard labor. Up to ten hours of education programs may count toward the 40 hours per week of hard labor requirement.
6. Permits the Department to deduct health care costs and the costs of treatment of injuries inflicted by an inmate upon another from an inmate's account.
7. The Bill eliminates the use of recognizance bonds for the release of OWI violators when facilities are overcrowded.

**ASSUMPTIONS**

1. The proposed changes for OWI offenders are not intended to increase the imprisonment of OWI offenders, but to codify current practices in regard to placement decisions.
2. The negotiated rate of reimbursement will cover the costs incurred by county jails.

**CORRECTIONAL IMPACT**

While there is a potential for increased use of prison for OWI offenders, the changes in this Bill are not expected to affect prison populations or services.

The Bill eliminates the use of personal recognizance or bonds for release of OWI offenders when there is insufficient space in the community-based correctional facilities. There is insufficient information to determine if this change will have an effect on community-based corrections facilities,

-2-

jails, or prisons.

FISCAL IMPACT

The changes made by SF 2289 are not expected to result in any significant fiscal impact.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Corrections (LSB 3380sv, MDF)

FILED MARCH 7, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

## SENATE FILE 2289

S-5221

1 Amend Senate File 2289 as follows:  
2 1. Page 3, by inserting after line 1 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 904.701, Code Supplement 1995,  
5 is amended by adding the following new subsection:  
6 NEW SUBSECTION. 1A. a. An inmate of an  
7 institution who is within five years of release shall  
8 participate in a steps-for-success program. The  
9 inmate shall agree to participate in programs or  
10 activities designed to improve the inmate's chances  
11 for success once released from the institution which  
12 may include any of the following:  
13 (1) At least thirty hours of hard labor.  
14 (2) Completion of a general equivalency degree or  
15 attainment of other educational competence,  
16 commensurate with the inmate's ability.  
17 (3) Vocational training.  
18 (4) Completion of required treatment programs,  
19 such as sex offender or substance abuse treatment  
20 programs. WVAB  
21 (5) A community class designed to familiarize the  
22 inmate with programs and benefits existing in the  
23 community to aid in the inmate's transition from the  
24 institution and into the community and to make the  
25 inmate aware of the inmate's responsibilities to the  
26 community.  
27 (6) A life skills class.  
28 The steps-for-success program shall require  
29 approximately fifty hours of the inmate's time per  
30 week. Failure to abide by the terms agreed to by the  
31 inmate may lead to a loss of time earned toward  
32 reducing the inmate's sentence. Successful completion  
33 of the program components may qualify the inmate for  
34 good conduct time.  
35 b. An inmate who is between five and ten years  
36 from anticipated release shall also enter into an  
37 agreement providing for hard labor, completion of  
38 educational competence, the community class, and  
39 special programs relating to the offense committed by  
40 the inmate as recommended by the inmate's counselor.  
41 Completion of programs under the agreement may qualify  
42 the inmate for good conduct time.  
43 c. Prisoners who are over ten years from release  
44 or who have been incarcerated for life may participate  
45 in a program of restorative justice designed to help  
46 the inmate partially repay society for the losses  
47 caused by the inmate. Restorative justice programs  
48 may include college courses leading toward a degree in  
49 teaching or computer science which degree could be  
50 used within the institution to teach other inmates,

S-5221

-1-

S-5221

Page 2

- 1 teaching other inmates unique or socially valuable  
 2 skills such as carpentry or gardening, researching and  
 3 leading discussion groups on positive subjects such as  
 4 good grooming, language skills, or interviewing  
 5 skills, or contributing to the good appearance of the  
 6 institution. Completion of the programs may qualify  
 7 the inmate for good conduct time."  
 8 2. Page 3, lines 6 and 7, by striking the words  
 9 "which shall average, as nearly as possible, forty  
 10 hours each week" and inserting the following: "which  
 11 ~~shall average, as nearly as possible,~~ forty-hours-each  
 12 week designed to show an inmate how to assume  
 13 responsibility, work hard, and complete projects".  
 14 3. Page 3, lines 8 and 9, by striking the words  
 15 "treatment or education programs," and inserting the  
 16 following: "treatment-programs,".

By JOHNIE HAMMOND

S-5221 FILED MARCH 6, 1996

WITHDRAWN

3-18-96 (p. 817)

SENATE FILE 2289

S-5126

1 Amend Senate File 2289 as follows:

- 2 1. Page 1, line 13, by striking the word "and"  
 3 and inserting the following: "and or".  
 4 2. Page 1, line 15, by inserting after the word  
 5 "services" the following: ", and employees of the  
 6 commission of veterans affairs,".

By RANDAL GIANNETTO

S-5126 FILED FEBRUARY 26, 1996

*Adopted 3/5/96 (p. 629)*

SENATE FILE 2289

S-5131

1 Amend Senate File 2289 as follows:

- 2 1. Page 3, by striking lines 2 through 18.  
 3 2. Title page, lines 2 and 3, by striking the  
 4 words "inmate hard labor,".  
 5 3. By renumbering as necessary.

By STEVEN D. HANSEN

S-5131 FILED FEBRUARY 27, 1996

*Adopted  
3/18/96  
(p. 818)*

## SENATE FILE 2289

S-5329

1 Amend Senate File 2289 as follows:  
2 1. Page 3, by inserting after line 1 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 904.701, Code Supplement 1995,  
5 is amended by adding the following new subsection:  
6 NEW SUBSECTION. 1A. a. An inmate of an  
7 institution who is within five years of release shall  
8 participate in a steps-for-success program. The  
9 inmate shall agree to participate in programs or  
10 activities designed to improve the inmate's chances  
11 for success once released from the institution which  
12 shall include at least thirty hours per week of hard  
13 labor and may include any of the following:  
14 (1) Completion of a general equivalency degree or  
15 attainment of other educational competence,  
16 commensurate with the inmate's ability.  
17 (2) Vocational training.  
18 (3) Completion of required treatment programs,  
19 such as sex offender or substance abuse treatment  
20 programs.  
21 (4) A community class designed to familiarize the  
22 inmate with programs and benefits existing in the  
23 community to aid in the inmate's transition from the  
24 institution and into the community and to make the  
25 inmate aware of the inmate's responsibilities to the  
26 community.  
27 (5) A life skills class.  
28 The steps-for-success program shall require  
29 approximately fifty hours of the inmate's time per  
30 week. Failure to abide by the terms agreed to by the  
31 inmate may lead to a loss of time earned toward  
32 reducing the inmate's sentence. Successful completion  
33 of the program components may qualify the inmate for  
34 good conduct time.  
35 b. An inmate who is between five and ten years  
36 from anticipated release shall also enter into an  
37 agreement providing for at least thirty hours per week  
38 of hard labor, completion of educational competence,  
39 the community class, and special programs relating to  
40 the offense committed by the inmate as recommended by  
41 the inmate's counselor. Completion of programs under  
42 the agreement may qualify the inmate for good conduct  
43 time.  
44 c. Prisoners who are over ten years from release  
45 or who have been incarcerated for life may participate  
46 in a program of restorative justice designed to help  
47 the inmate partially repay society for the losses  
48 caused by the inmate. Restorative justice programs  
49 shall include at least thirty hours per week of hard  
50 labor and may include college courses leading toward a

S-5329

-1-

S-5329

Page 2

1 degree in teaching or computer science which degree  
2 could be used within the institution to teach other  
3 inmates, teaching other inmates unique or socially  
4 valuable skills such as carpentry or gardening,  
5 researching and leading discussion groups on positive  
6 subjects such as good grooming, language skills, or  
7 interviewing skills, or contributing to the good  
8 appearance of the institution. Completion of the  
9 programs may qualify the inmate for good conduct  
10 time."

11 2. Page 3, lines 6 and 7, by striking the words  
12 "which shall average, as nearly as possible, forty  
13 hours each week" and inserting the following:  
14 "designed to show an inmate how to assume  
15 responsibility, work hard, and complete projects".  
16 3. Page 3, lines 8 and 9, by striking the words  
17 "treatment or education programs," and inserting the  
18 following: "~~treatment-programs,~~".

By JOHNIE HAMMOND

S-5329 FILED MARCH 13, 1996

*lost 3/18/96**(p. 818)*

H. 3/19/96 Judiciary  
H. 3/25/96 Do Pass

SENATE FILE **2289**  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR to SSB 2146)

(AS AMENDED AND PASSED BY THE SENATE MARCH 18, 1996)

\_\_\_\_\_ - New Language by the Senate  
\* - Language Stricken by the Senate

Passed Senate, Date <sup>p.818</sup> 3/18/96 Passed House, Date <sup>(1721)</sup> 4/17/96  
Vote: Ayes 48 Nays 1 Vote: Ayes 93 Nays 0  
Approved 4/24/96

A BILL FOR

1 An Act relating to the department of corrections, including  
\*2 operating while intoxicated violator facilities, reimbursement  
3 by parole violators, tort claims protection for certain  
4 persons, and inmate accounts.

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

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

S.F. 2289

1 Section 1. Section 669.2, subsection 4, unnumbered  
2 paragraph 1, Code 1995, is amended to read as follows:  
3 "Employee of the state" includes any one or more officers,  
4 agents, or employees of the state or any state agency,  
5 including members of the general assembly, and persons acting  
6 on behalf of the state or any state agency in any official  
7 capacity, temporarily or permanently in the service of the  
8 state of Iowa, whether with or without compensation but does  
9 not include a contractor doing business with the state.  
10 Professional personnel, including physicians, osteopathic  
11 physicians and surgeons, osteopathic physicians, optometrists,  
12 and dentists, nurses, physician assistants, and other medical  
13 personnel, who render services to patients and or inmates of  
14 state institutions under the jurisdiction of the department of  
15 human services, and employees of the commission of veterans  
16 affairs, or the Iowa department of corrections are to be  
17 considered employees of the state, whether the personnel are  
18 employed on a full-time basis or render services on a part-  
19 time basis on a fee schedule or other arrangement. Criminal  
20 defendants while performing unpaid community service ordered  
21 by the district court, board of parole, or judicial district  
22 department of correctional services, or an inmate providing  
23 services pursuant to a chapter 28E agreement entered into  
24 pursuant to section 904.703, are to be considered employees of  
25 the state.

26 Sec. 2. Section 904.513, Code 1995, is amended by striking  
27 the section and inserting in lieu thereof the following:

28 904.513 ASSIGNMENT OF OWI VIOLATORS TO TREATMENT  
29 FACILITIES.

30 1. The department of corrections, in cooperation with the  
31 judicial district departments of correctional services, shall  
32 establish in each judicial district a continuum of programming  
33 for the supervision and treatment of offenders convicted of  
34 violating chapter 321J who are sentenced to the custody of the  
35 director. The continuum shall include a range of sanctioning

1 options that include, but are not limited to, prisons and  
2 residential facilities. The department of corrections shall  
3 develop standardized assessment criteria for the assignment of  
4 offenders pursuant to this chapter. Assignment shall be for  
5 the purposes of risk management and substance abuse treatment  
6 and may include education or work programs when the offender  
7 is not participating in other program components. Assignment  
8 may also be made on the basis of the offender's treatment  
9 program performance, as a disciplinary measure, for medical  
10 needs, and for space availability at community residential  
11 facilities. If there is insufficient space at a community  
12 residential facility the court may order an offender to be  
13 released to the supervision of the judicial district  
14 department of correctional services or held in jail.

15 2. Upon request by the director a county shall provide  
16 temporary confinement for offenders allegedly violating the  
17 conditions of assignment to a program under this chapter, if  
18 space is available in the county. The department shall  
19 negotiate a reimbursement rate with each county. The amount  
20 to be reimbursed shall be determined by multiplying the number  
21 of days a person is confined by the average daily cost of  
22 confining a person in the county facility as negotiated with  
23 the department. A county holding offenders in jail due to  
24 insufficient space in a community residential facility shall  
25 be reimbursed. Payment shall be made upon submission of a  
26 voucher executed by the sheriff and approved by the director.

27 3. The department shall adopt rules for the implementation  
28 of this section. The rules shall include the requirement that  
29 the treatment programs established pursuant to this chapter  
30 meet the licensure standards of the division of substance  
31 abuse for the department of public health. The rules shall  
32 also include provisions for the funding of the program by  
33 means of self-contribution by the offenders, insurance  
34 reimbursement on behalf of offenders, or other forms of  
35 funding, program structure, criteria for the evaluation of

1 offenders and programs, and all other issues the director  
2 shall deem appropriate.

\* 3 Sec. 3. Section 904.702, unnumbered paragraph 1, Code  
4 Supplement 1995, is amended to read as follows:

5 If allowances are paid pursuant to section 904.701, the  
6 director shall establish an inmate account, for deposit of  
7 those allowances and for deposit of moneys sent to the inmate  
8 from a source other than the department of corrections. The  
9 director may deduct an amount, not to exceed ten percent of  
10 the amount of the allowance, unless the inmate requests a  
11 larger amount, to be deposited into the inmate savings fund as  
12 required under section 904.508, subsection 2. The director  
13 shall deduct from the inmate account an amount established by  
14 the inmate's restitution plan of payment. The director shall  
15 also deduct from any remaining account balance an amount  
16 sufficient to pay all or part of any judgment against the  
17 inmate, including but not limited to judgments for taxes and  
18 child support, and court costs and fees assessed either as a  
19 result of the inmate's confinement or amounts required to be  
20 paid under section 610A.1. Written notice of the amount of  
21 the deduction shall be given to the inmate, who shall have  
22 five days after receipt of the notice to submit in writing any  
23 and all objections to the deduction to the director, who shall  
24 consider the objections prior to transmitting the deducted  
25 amount to the clerk of the district court. The director need  
26 give only one notice for each action or appeal under section  
27 610A.1 for which periodic deductions are to be made. The  
28 director shall next deduct from any remaining account balance  
29 an amount sufficient to pay all or part of any costs assessed  
30 against the inmate for misconduct or damage to the property of  
31 others. The director may deduct from the inmate's account an  
32 amount sufficient to pay for the inmate's share of the costs  
33 of health services requested by the inmate and for the  
34 treatment of injuries inflicted by the inmate on the inmate or  
35 others. The director may deduct and disburse an amount

1 sufficient for industries' programs to qualify under the  
2 eligibility requirements established in the Justice Assistance  
3 Act of 1984, Pub. L. No. 98-473, including an amount to pay  
4 all or part of the cost of the inmate's incarceration. The  
5 director may pay all or any part of remaining allowances paid  
6 pursuant to section 904.701 directly to a dependent of the  
7 inmate, or may deposit the allowance to the account of the  
8 inmate, or may deposit a portion and allow the inmate a  
9 portion for the inmate's personal use.

10 Sec. 4. NEW SECTION. 906.18 PAROLE VIOLATORS --  
11 REIMBURSEMENT TO DEPARTMENT.

12 The department of corrections shall arrange for the return  
13 of parolees who escape from the facility to which they are  
14 assigned or violate the conditions of supervision. The  
15 parolee shall reimburse the department of corrections for the  
16 costs incurred because of the escape or violation. The amount  
17 of reimbursement shall be the actual cost incurred by the  
18 department, and shall be credited to the support account from  
19 which the billing occurred. The department shall adopt rules  
20 to implement this section.

21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

## SENATE FILE 2289

-5990

1 Amend Senate File 2289, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 25.

4 2. Page 1, by inserting before line 26 the  
5 following:

6 "Sec. \_\_\_\_ . Section 602.8107, subsection 2,  
7 paragraph d, Code Supplement 1995, is amended to read  
8 as follows:

9 d. Court costs including correctional fees  
10 assessed pursuant to section 904.108, court-appointed  
11 attorney fees, or public defender expenses.

12 Sec. \_\_\_\_ . Section 904.108, Code 1995, is amended  
13 by adding the following new subsection:

14 NEW SUBSECTION. 7. a. The director may charge an  
15 inmate a correctional fee for custodial expenses  
16 incurred or which may be incurred while the inmate is  
17 in the custody of the department. The custodial  
18 expenses may include, but are not limited to, board  
19 and room, medical and dental fees, education costs,  
20 clothing costs, and the costs of supervision,  
21 services, and treatment provided to the inmate. The  
22 correctional fee shall not exceed the actual cost of  
23 keeping the inmate in custody. The correctional fees  
24 shall be assessed as court costs and any correctional  
25 fees collected pursuant to this subsection shall be  
26 credited to the general fund of the state. The  
27 correctional fees shall be collected as other court  
28 costs pursuant to section 602.8107.

29 b. The director or the attorney general, on behalf  
30 of the director, may file a correctional fee for  
31 custodial services lien with the clerk of the district  
32 court which shall include all of the following  
33 information, if known:

34 (1) The name and date of birth of the person whose  
35 property or other interests are subject to the lien.

36 (2) The present address of the residence and  
37 principal place of business of the person named in the  
38 lien.

39 (3) The criminal proceeding pursuant to which the  
40 lien is filed, including the name of the court, the  
41 title of the action, and the court's file number.

42 (4) The name of the director or the name of the  
43 attorney general.

44 (5) A statement that the notice is being filed  
45 pursuant to this section.

46 (6) The amount of the correctional fee for  
47 custodial services the person has been ordered to pay  
48 or is likely to be ordered to pay.

49 c. The filing of a correctional fee for custodial  
50 services lien in accordance with this section creates

-5990

-1-

H-5990

Page 2

1 a lien in favor of the state in any personal or real  
2 property identified in the lien to the extent of the  
3 interest held in that property by the person named in  
4 the lien.

5 d. This subsection does not limit the right of the  
6 director to obtain any other remedy authorized by  
7 law."

8 3. Title page, lines 3 and 4, by striking the  
9 words "tort claims protection for certain persons,".

10 4. Title page, line 4, by inserting before the  
11 word "and" the following: "the payment of  
12 correctional fees by inmates and providing for the  
13 creation and filing of a correctional fee lien,".

14 5. By renumbering as necessary.

By HARRISON of Scott

H-5990 FILED APRIL 17, 1996

*Not Hermane*

*4-17-96*

*(p. 1721)*

Disignans  
Giannetto  
Hammond  
Maddox  
Bartz

SSB-2145  
Judiciary

Succeeded By  
SENATE FILE SD/HF 2289  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON GIANNETTO)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to juveniles placed in detention in jails.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 232.22, subsection 6, Code Supplement  
2 1995, is amended to read as follows:

3 6. If the court has waived its jurisdiction over the child  
4 for the alleged commission of a forcible felony offense  
5 pursuant to section 232.45 or 232.45A, and there is a serious  
6 risk that the child may commit an act which would inflict  
7 serious bodily harm on another person, the child may be held  
8 in the county jail, ~~notwithstanding section 356.3~~. However,  
9 wherever possible the child shall be held in sight and sound  
10 separation from adult offenders. A child held in the county  
11 jail under this subsection shall have all the rights of adult  
12 postarrest or pretrial detainees.

13 Sec. 2. Section 356.3, Code 1995, is amended to read as  
14 follows:

15 356.3 MINORS SEPARATELY CONFINED.

16 Any sheriff, city marshal, or chief of police, having in  
17 the officer's care or custody any prisoner under the age of  
18 eighteen years over whom the juvenile court has not waived its  
19 jurisdiction, ~~shall keep such prisoner separate and apart, and~~  
20 ~~prevent communication by such prisoner with prisoners above~~  
21 ~~that age, while such prisoners are not under the personal~~  
22 ~~supervision of such officer, if suitable buildings or jails~~  
23 ~~are provided for that purpose, unless such prisoner is likely~~  
24 ~~to or does exercise an immoral influence over other minors~~  
25 ~~with whom the prisoner may be imprisoned.~~

26 ~~A person under the age of eighteen years prosecuted under~~  
27 ~~chapter 232 and not waived to criminal court shall be confined~~  
28 in a jail only under the conditions provided in chapter 232.  
29 If the juvenile court has waived its jurisdiction over the  
30 person, a person under the age of eighteen years may be held  
31 in the jail in accordance with section 232.22, subsection 6.

32 Any officer having charge of prisoners who without just  
33 cause or excuse neglects or refuses to perform the duties  
34 imposed on the officer by this section may be suspended or  
35 removed from office therefor.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

EXPLANATION

This bill amends section 356.3 regarding the confinement of juveniles in adult jails or holding facilities to provide that juveniles are to be confined in adult facilities in accordance with the provisions on the detention of juveniles in chapter 232 (juvenile justice). Chapter 232 requires juveniles to be held in sight and sound separation from adult prisoners if jurisdiction over the juvenile has not been waived by the juvenile court. If the court has waived its jurisdiction over a juvenile alleged to have committed a forcible felony, the juvenile may be held in the county jail as an adult.

SENATE FILE 2289

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTIONS, INCLUDING OPERATING WHILE INTOXICATED VIOLATOR FACILITIES, REIMBURSEMENT BY PAROLE VIOLATORS, TORT CLAIMS PROTECTION FOR CERTAIN PERSONS, AND INMATE ACCOUNTS.

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

Section 1. Section 669.2, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

"Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, and dentists, nurses, physician assistants, and other medical personnel, who render services to patients and or inmates of state institutions under the jurisdiction of the department of human services, and employees of the commission of veterans affairs, or the Iowa department of corrections are to be considered employees of the state, whether the personnel are

employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, are to be considered employees of the state.

Sec. 2. Section 904.513, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

904.513 ASSIGNMENT OF OWI VIOLATORS TO TREATMENT FACILITIES.

1. The department of corrections, in cooperation with the judicial district departments of correctional services, shall establish in each judicial district a continuum of programming for the supervision and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The continuum shall include a range of sanctioning options that include, but are not limited to, prisons and residential facilities. The department of corrections shall develop standardized assessment criteria for the assignment of offenders pursuant to this chapter. Assignment shall be for the purposes of risk management and substance abuse treatment and may include education or work programs when the offender is not participating in other program components. Assignment may also be made on the basis of the offender's treatment program performance, as a disciplinary measure, for medical needs, and for space availability at community residential facilities. If there is insufficient space at a community residential facility the court may order an offender to be released to the supervision of the judicial district department of correctional services or held in jail.

2. Upon request by the director a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if

space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director.

3. The department shall adopt rules for the implementation of this section. The rules shall include the requirement that the treatment programs established pursuant to this chapter meet the licensure standards of the division of substance abuse for the department of public health. The rules shall also include provisions for the funding of the program by means of self-contribution by the offenders, insurance reimbursement on behalf of offenders, or other forms of funding, program structure, criteria for the evaluation of offenders and programs, and all other issues the director shall deem appropriate.

Sec. 3. Section 904.702, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

If allowances are paid pursuant to section 904.701, the director shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund as required under section 904.508, subsection 2. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and

child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct or damage to the property of others. The director may deduct from the inmate's account an amount sufficient to pay for the inmate's share of the costs of health services requested by the inmate and for the treatment of injuries inflicted by the inmate on the inmate or others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 4. NEW SECTION. 906.18 PAROLE VIOLATORS -- REIMBURSEMENT TO DEPARTMENT.

The department of corrections shall arrange for the return of parolees who escape from the facility to which they are assigned or violate the conditions of supervision. The parolee shall reimburse the department of corrections for the costs incurred because of the escape or violation. The amount of reimbursement shall be the actual cost incurred by the

department, and shall be credited to the support account from which the billing occurred. The department shall adopt rules to implement this section.

---

LEONARD L. BOSWELL  
President of the Senate

---

RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2289, Seventy-sixth General Assembly.

---

JOHN F. DWYER  
Secretary of the Senate

Approved 4/24, 1996

---

TERRY E. BRANSTAD  
Governor

SF 2289