

board of pharmacy examiners and the commissioner of public safety shall report the findings and recommendations of the study to the general assembly on or before January 2, 1997.

Approved April 24, 1996

CHAPTER 1165

DEPARTMENT OF CORRECTIONS – MISCELLANEOUS PROVISIONS

S.F. 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

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

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.