

Senate Amendment 5165

Amendment Text

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1 1 Amend [House File 2519](#), as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 "Section 1. Section [80D.1](#), Code 1999, is amended
1 6 to read as follows:
1 7 80D.1 ESTABLISHMENT OF A FORCE OF RESERVE PEACE
1 8 OFFICERS.
1 9 The governing body of a city, a county,

~~—or~~

— the

1 10 state of Iowa, or a judicial district department of
1 11 correctional services may provide, either separately
1 12 or collectively through a chapter 28E agreement, for
1 13 the establishment of a force of reserve peace
1 14 officers, and may limit the size of the reserve force.
1 15 In the case of the state, the department of public
1 16 safety shall act as the governing body.
1 17 This chapter constitutes the only procedure for
1 18 appointing reserve peace officers.
1 19 Sec. 2. Section [80D.4](#), Code 1999, is amended to
1 20 read as follows:
1 21 80D.4 TRAINING.
1 22 Training for individuals appointed as reserve peace
1 23 officers shall be provided by that law enforcement
1 24 agency, but may be obtained in a community college or
1 25 other facility selected by the individual and approved
1 26 by the law enforcement agency. Upon satisfactory
1 27 completion of training, the chief of police, sheriff,
1 28

~~—or~~

— commissioner of public safety, or director of the
1 29 judicial district department of correctional services
1 30 shall certify the individual as a reserve peace
1 31 officer.
1 32 Sec. 3. Section [80D.6](#), Code 1999, is amended to
1 33 read as follows:
1 34 80D.6 STATUS OF RESERVE PEACE OFFICERS.
1 35 Reserve peace officers shall serve as peace
1 36 officers on the orders and at the discretion of the
1 37 chief of police, sheriff,

~~—or~~

— commissioner of public
1 38 safety or the commissioner's designee, or director of
1 39 the judicial district department of correctional
1 40 services or the director's designee, as the case may
1 41 be.
1 42 While in the actual performance of official duties,
1 43 reserve peace officers shall be vested with the same
1 44 rights, privileges, obligations, and duties as any
1 45 other peace officers.
1 46 Sec. 4. Section [80D.7](#), Code 1999, is amended to
1 47 read as follows:
1 48 80D.7 CARRYING WEAPONS.

1 49 A member of a reserve force shall not carry a
1 50 weapon in the line of duty until the member has been
2 1 approved by the governing body and certified by the
2 2 Iowa law enforcement academy council to carry weapons.
2 3 After approval and certification, a reserve peace
2 4 officer may carry a weapon in the line of duty only
2 5 when authorized by the chief of police, sheriff,

~~—or~~

2 6 commissioner of public safety or the commissioner's
2 7 designee, or director of the judicial district
2 8 department of correctional services or the director's
2 9 designee, as the case may be.

2 10 Sec. 5. Section [80D.9](#), Code 1999, is amended to
2 11 read as follows:

2 12 80D.9 SUPERVISION OF RESERVE PEACE OFFICERS.

2 13 Reserve peace officers shall be subordinate to
2 14 regular peace officers, shall not serve as peace
2 15 officers unless under the direction of regular peace
2 16 officers, and shall wear a uniform prescribed by the
2 17 chief of police, sheriff,

~~—or~~

— commissioner of public
2 18 safety, or director of the judicial district
2 19 department of correctional services unless that
2 20 superior officer designates alternate apparel for use
2 21 when engaged in assignments involving special
2 22 investigation, civil process, court duties, jail
2 23 duties and the handling of mental patients. The
2 24 reserve peace officer shall not wear an insignia of
2 25 rank. Each department for which a reserve force is
2 26 established shall appoint a regular force peace
2 27 officer as the reserve force co-ordinating and
2 28 supervising officer. That regular peace officer shall
2 29 report directly to the chief of police, sheriff,

~~—or~~

2 30 commissioner of public safety or the commissioner's
2 31 designee, or director of the judicial district
2 32 department of correctional services or the director's
2 33 designee, as the case may be.

2 34 Sec. 6. Section [80D.11](#), Code 1999, is amended to
2 35 read as follows:

2 36 80D.11 EMPLOYEE PAY.

2 37 While performing official duties, each reserve
2 38 peace officer shall be considered an employee of the
2 39 governing body which the officer represents and shall
2 40 be paid a minimum of one dollar per year. The
2 41 governing body of a city, a county,

~~—or~~

— the state, or a
2 42 judicial district department of correctional services
2 43 may provide additional monetary assistance for the
2 44 purchase and maintenance of uniforms and equipment
2 45 used by reserve peace officers.

2 46 Sec. 7. Section [222.60](#), Code 1999, is amended to
2 47 read as follows:

2 48 222.60 COSTS PAID BY COUNTY OR STATE DIAGNOSIS
2 49 AND EVALUATION.

2 50 1. All necessary and legal expenses for the cost
3 1 of admission or commitment, including expenses
3 2 incurred pursuant to section 812.5, or for the
3 3 treatment, training, instruction, care, habilitation,

3 4 support and transportation of persons with mental
3 5 retardation, as provided for in the county management
3 6 plan provisions implemented pursuant to section
3 7 331.439, subsection 1, in a state hospital-school, or
3 8 in a special unit, or any public or private facility
3 9 within or without the state, approved by the director
3 10 of the department of human services, shall be paid by
3 11

~~either~~

- a county or by the state as follows:

3 12

~~1.~~

- a. The county in which such person has legal

3 13 settlement as defined in section 252.16.

3 14 b. The county in which such person has been
3 15 charged with a criminal offense if the person is
3 16 transferred or referred to a state hospital-school for
3 17 any of the following:

3 18 (1) A diagnosis or recommendation as part of the
3 19 pretrial or presentence procedure.

3 20 (2) A determination of mental competency or,
3 21 pursuant to Iowa rule of criminal procedure 21, a
3 22 placement of a defendant.

3 23 (3) A determination of competency to stand trial,
3 24 a determination of a defendant's dangerousness, or a
3 25 commitment as mentally incompetent to stand trial
3 26 pursuant to section 812.4.

3 27 (4) A diagnosis, evaluation, or treatment for a
3 28 prisoner transferred from a county or city jail.

3 29

~~2.~~

- c. The state when such person has no legal

3 30 settlement or when such settlement is unknown.

3 31 2. Prior to a county of legal settlement approving
3 32 the payment of expenses for a person under this
3 33 section to which subsection 1, paragraph "a", applies,
3 34 the county may require that the person be diagnosed to
3 35 determine if the person has mental retardation or that
3 36 the person be evaluated to determine the appropriate
3 37 level of services required to meet the person's needs
3 38 relating to mental retardation. The diagnosis and the
3 39 evaluation may be performed concurrently and shall be
3 40 performed by an individual or individuals approved by
3 41 the county who are qualified to perform the diagnosis
3 42 or the evaluation. Following the initial approval for
3 43 payment of expenses, the county of legal settlement
3 44 may require that an evaluation be performed at
3 45 reasonable time periods. The cost of a county-
3 46 required diagnosis and an evaluation is at the
3 47 county's expense. In the case of a person without
3 48 legal settlement or whose legal settlement is unknown,
3 49 the state may apply the diagnosis and evaluation
3 50 provisions of this paragraph at the state's expense.

4 1 A diagnosis or an evaluation under this section of a
4 2 person to which subsection 1, paragraph "a", applies,
4 3 may be part of a county's single entry point process
4 4 under section 331.440, provided that a diagnosis is
4 5 performed only by an individual qualified as provided
4 6 in this section. However, the single entry point
4 7 process is not applicable and a court is not required
4 8 to seek authorization through the single entry point
4 9 process prior to transferring or referring a person to
4 10 a state hospital-school for any reason provided in
4 11 subsection 1, paragraph "b".

4 12 3. A diagnosis of mental retardation under this
4 13 section shall be made only when the onset of the
4 14 person's condition was prior to the age of eighteen
4 15 years and shall be based on an assessment of the
4 16 person's intellectual functioning and level of
4 17 adaptive skills. The diagnosis shall be made by an
4 18 individual who is a psychologist or psychiatrist who
4 19 is professionally trained to administer the tests
4 20 required to assess intellectual functioning and to
4 21 evaluate a person's adaptive skills.

4 22 4. A diagnosis of mental retardation shall be made
4 23 in accordance with the criteria provided in the
4 24 diagnostic and statistical manual of mental disorders,
4 25 fourth edition, published by the American psychiatric
4 26 association.

4 27 Sec. 8. Section 226.30, Code 1999, is amended to
4 28 read as follows:

4 29 226.30 TRANSFER OF DANGEROUS PATIENTS.

4 30 When a patient of any hospital for persons with
4 31 mental illness becomes incorrigible, and unmanageable
4 32 to such an extent that the patient is dangerous to the
4 33 safety of others in the hospital, the administrator,
4 34 following review and approval of the director of the
4 35 department of corrections, may apply in writing to the
4 36 district court or to any judge

~~thereof,~~

- of the county

4 37 in which the hospital is situated, for an order to
4 38 transfer the patient to the Iowa medical and
4 39 classification center and if the order is granted the
4 40 patient shall be

~~so~~

- transferred. The county attorney

4 41 of the county shall appear in support of the
4 42 application on behalf of the administrator.

4 43 Sec. 9. Section 230.1, Code Supplement 1999, is
4 44 amended to read as follows:

4 45 230.1 LIABILITY OF COUNTY AND STATE.

4 46 1. The necessary and legal costs and expenses
4 47 attending the taking into custody, care,
4 48 investigation, admission, commitment, including civil
4 49 commitment pursuant to section 812.5, and support of a
4 50 person with mental illness admitted or committed to a
5 1 state hospital shall be paid by a county or by the
5 2 state as follows:

5 3 a. By the county in which such person has a legal
5 4 settlement, if the person is eighteen years of age or
5 5 older.

5 6 b. By the county in which such person has been
5 7 charged with a criminal offense if the person is
5 8 transferred or referred to a state hospital for any of
5 9 the following:

5 10 (1) A psychosocial diagnosis or recommendation as
5 11 part of the pretrial or presentence procedure.

5 12 (2) A determination of mental competency or,
5 13 pursuant to Iowa rule of criminal procedure 21, a
5 14 placement of a defendant.

5 15 (3) A determination of competency to stand trial,
5 16 a determination of a defendant's dangerousness, or a
5 17 commitment as mentally incompetent to stand trial
5 18 pursuant to section 812.4.

5 19 (4) A diagnosis, evaluation, or treatment for
5 20 mental illness for a prisoner transferred from a
5 21 county or city jail.

5 22

~~b.~~

- c. By the state when such person has no legal
5 23 settlement in this state, when the person's legal
5 24 settlement is unknown, or if the person is under
5 25 eighteen years of age.
5 26 2. The legal settlement of any person found
5 27 mentally ill who is a patient of any state institution
5 28 shall be that existing at the time of admission
5 29 thereto.
5 30 3. A county of legal settlement is not liable for
5 31 costs and expenses associated with a person with
5 32 mental illness to which subsection 1, paragraph "a",
5 33 applies, unless the costs and expenses are for
5 34 services and other support authorized for the person
5 35 through the single entry point process. However, the
5 36 single entry point process is not applicable and a
5 37 court is not required to seek authorization through
5 38 the single entry point process prior to ordering an
5 39 evaluation of, transferring, or referring a person to
5 40 a state hospital for any reason provided in subsection
5 41 1, paragraph "b". For the purposes of this chapter,
5 42 "single entry point process" means the same as defined
5 43 in section 331.440.
5 44 Sec. 10. Section [704.8](#), Code 1999, is amended to
5 45 read as follows:
5 46 704.8 ESCAPE FROM PLACE OF CONFINEMENT.
5 47 A correctional officer or peace officer is
5 48 justified in using reasonable force, including deadly
5 49 force, which is necessary to prevent the escape of any
5 50 person from any jail, penal institution, correctional
6 1 facility, or similar place of confinement, or place of
6 2 trial or other judicial proceeding, or to prevent the
6 3 escape from custody of any person who is being
6 4 transported from any such place of confinement, trial
6 5 or judicial proceeding to any other such place, except
6 6 that deadly force may not be used to prevent the
6 7 escape of one who the correctional officer or peace
6 8 officer knows

~~or should know~~

- is confined on a charge
6 9 or conviction of any class of misdemeanor.
6 10 Sec. 11. Section [904.201](#), subsection 8, Code 1999,
6 11 is amended to read as follows:
6 12 8.

~~Chapter 230 governs the determination of~~

~~The~~

6 13 costs and charges for the care and treatment of
6 14 persons

~~with mental illness~~

- admitted to the forensic
6 15 psychiatric hospital pursuant to subsection 3, shall
6 16 be paid by the county in which the criminal charges
6 17 are filed, except that charges for the care and
6 18 treatment of any person transferred to the forensic
6 19 psychiatric hospital from an adult correctional
6 20 institution or from a state training school shall be
6 21 paid entirely from state funds. The court ordering a
6 22 person to the forensic psychiatric hospital for care
6 23 and treatment shall not be subject to the single entry
6 24 point process under section 331.440. Charges for all
6 25 other persons at the forensic psychiatric hospital
6 26 shall be billed to the respective counties at the same
6 27 ratio as for patients at state mental health

6 28 institutes under section 230.20. The Iowa medical and
6 29 classification center shall bill the proper county
6 30 directly.

6 31 Sec. 12. Section [904.202](#), Code 1999, is amended to
6 32 read as follows:

6 33 904.202 INTAKE AND CLASSIFICATION CENTER.

6 34 The director may provide facilities and personnel
6 35 for a diagnostic intake and classification center.
6 36 The work of the center shall include a scientific
6 37 study of each inmate, the inmate's career and life
6 38 history, the causes of the inmate's criminal acts and
6 39 recommendations for the inmate's custody, care,
6 40 training, employment, and counseling with a view to
6 41 rehabilitation and to the protection of society. To
6 42 facilitate the work of the center and to aid in the
6 43 rehabilitation of the inmates, the trial judge,
6 44 prosecuting attorney, and presentence investigators
6 45 shall furnish the director

~~upon request~~

~~with any~~

6 46 previously authorized presentence investigation report
6 47 and a full statement of facts and circumstances
6 48 attending the commission of the offense so far as
6 49 known or believed by them. If the department develops
6 50 and utilizes an inmate classification system, it must,
7 1 within a reasonable time, present evidence from
7 2 independent experts as to the effectiveness and
7 3 validity of the classification system.

7 4 Sec. 13. Section [904.405](#), Code 1999, is amended to
7 5 read as follows:

7 6 904.405 TRANSCRIPT OF TESTIMONY.

7 7 The director shall cause the testimony taken at the
7 8 investigation to be

~~transcribed and~~

~~recorded. The~~

7 9 recording of the testimony shall not be transcribed
7 10 unless the testimony is part of a case that is
7 11 appealed or an interested party requests a transcript.
7 12 The recording of the testimony, or the transcription
7 13 thereof, shall be filed and maintained in the
7 14 director's office at the seat of government

~~within ten~~

~~days after the testimony is taken, or as soon as~~

~~practicable, and when filed the testimony shall be~~

~~open for the inspection of any person~~

~~for at least~~

7 15
7 16
7 17
7 18 five years from the date the testimony is taken or the
7 19 date of a final decision in a case involving the
7 20 testimony, whichever is later.

7 21 Sec. 14. Section [904.508](#), subsections 1 and 2,
7 22 Code 1999, are amended to read as follows:

7 23 1. The superintendent of each institution shall
7 24 receive and care for any property an inmate may
7 25 possess on the inmate's person upon entering the
7 26 institution, and on the discharge of the inmate,

7 27 return the property to the inmate or the inmate's
7 28 legal representatives, unless the property has been
7 29 previously disposed of according to the inmate's
7 30 written designation or policies prescribed by the
7 31 board.

~~The superintendent may place an inmate's money~~

7 32

~~at interest, keeping an account of the money and~~

7 33

~~returning the remaining money upon discharge.~~

7 34 2. The director shall establish and maintain an
7 35 inmate savings fund in an

~~interest bearing~~

account for

7 36 the deposit of all or part of an inmate's allowances,
7 37 as provided in section 904.702. All or part of an
7 38 inmate's allowances shall be deposited into the
7 39 savings fund, until the inmate's deposit is equal to
7 40 the amount due the inmate upon discharge, parole, or
7 41 placement on work release, as provided in section
7 42 906.9. If an inmate's deposits equal this amount, the
7 43 inmate may voluntarily withdraw from the savings fund.
7 44 The director shall notify the inmate of this right to
7 45 withdraw and shall provide the inmate with a written
7 46 request form to facilitate the withdrawal. If the
7 47 inmate withdraws and the inmate's deposits exceed the
7 48 amount due as provided in section 906.9, the director
7 49 shall disburse the excess amount as provided for
7 50 allowances under section 904.702, except the director
8 1 shall not deposit the excess amount in the inmate
8 2 savings fund. If the inmate chooses to continue to
8 3 participate in the savings fund, the inmate's deposits
8 4 shall be returned to the inmate upon discharge,
8 5 parole, or placement on work release. Otherwise, the
8 6 inmate's deposits shall be disposed of as provided in
8 7 subsection 3. An inmate's deposits into the savings
8 8 fund may be used to provide the money due the inmate
8 9 upon discharge, parole, or placement on work release,
8 10 as required under section 906.9.

~~Interest earned from~~

8 11

~~the savings fund shall be placed in a separate~~

8 12

~~account, and may be used for purchases approved by the~~

8 13

~~director to directly and collectively benefit inmates.~~

8 14 Sec. 15. Section [904.602](#), subsection 1, Code 1999,
8 15 is amended by adding the following new paragraph:
8 16 NEW PARAGRAPH. m. Family and personal history if
8 17 the individual is dead or has not received services
8 18 from the department or the judicial district
8 19 departments of correctional services for at least ten

8 20 years prior to a request for the information.
8 21 Sec. 16. Section [904.602](#), subsection 2, paragraph
8 22 h, Code 1999, is amended to read as follows:
8 23 h. Family and personal history if the individual
8 24 is alive and has received services from the department
8 25 or the judicial district departments of correctional
8 26 services within the ten years preceding a request for
8 27 the information.
8 28 Sec. 17. Section [904.809](#), subsection 2, paragraph
8 29 b, Code Supplement 1999, is amended by adding the
8 30 following new subparagraph:
8 31 **NEW SUBPARAGRAPH.** (3) The lease agreement shall
8 32 establish a cost for the lease which shall take into
8 33 consideration compensation for the amount of building
8 34 space utilized compared to the cost of similar space
8 35 leased outside the institution in the local community,
8 36 maintenance costs, and modifications made to a
8 37 correctional facility to accommodate the lessee such
8 38 as payment of utilities and depreciation costs, and a
8 39 pro rata cost of correctional officer supervision of
8 40 inmates.
8 41 Sec. 18. Section [904.809](#), subsection 2, Code
8 42 Supplement 1999, is amended by adding the following
8 43 new paragraph:
8 44 **NEW PARAGRAPH.** c. Effective July 1, 2001, a
8 45 portion of moneys received pursuant to a lease
8 46 negotiated pursuant to the requirements of this
8 47 section shall be deposited in the general fund of the
8 48 state and that portion of the moneys received
8 49 representing the cost of building maintenance,
8 50 modification, and utilities as it relates to the lease
9 1 are deemed repayment receipts as defined in section
9 2 8.2.
9 3 Sec. 19. Section [904A.1](#), Code 1999, is amended to
9 4 read as follows:
9 5 **904A.1 BOARD OF PAROLE.**
9 6 The board of parole is created to consist of five
9 7 members. Each member, except the chairperson and the
9 8 vice chairperson, shall be compensated on a day-to-day
9 9 basis. Each member shall serve a term of four years
9 10 beginning and ending as provided by section 69.19,
9 11 except for members appointed to fill vacancies who
9 12 shall serve for the balance of the unexpired term.
9 13 The terms shall be staggered. The chairperson and
9 14 vice chairperson of the board shall be

~~—a~~
— full-time,
9 15 salaried

~~—member~~
— members of the board. A majority of
9 16 the members of the board constitutes a quorum to
9 17 transact business.
9 18 Sec. 20. **NEW SECTION.** 904A.4C VICE CHAIRPERSON
9 19 OF THE BOARD OF PAROLE.
9 20 The vice chairperson of the board of parole shall
9 21 be appointed from the membership of the board of
9 22 parole by the governor. The vice chairperson shall
9 23 serve at the pleasure of the governor and shall have
9 24 such responsibilities and duties as are determined by
9 25 the chairperson. The vice chairperson shall act as
9 26 the chairperson in the absence or disability of the
9 27 chairperson or in the event of a vacancy in that
9 28 office, until such time as a new chairperson is
9 29 appointed by the governor.
9 30 Sec. 21. Section [904A.6](#), Code 1999, is amended to

9 31 read as follows:

9 32 904A.6 SALARIES AND EXPENSES.

9 33 Each member, except the chairperson and the vice
9 34 chairperson, of the board shall be paid per diem as
9 35 determined by the general assembly. The chairperson
9 36 and vice chairperson of the board shall be paid a
9 37 salary as determined by the general assembly. Each
9 38 member of the board and all employees are entitled to
9 39 receive, in addition to their per diem or salary,
9 40 their necessary maintenance and travel expenses while
9 41 engaged in official business.

9 42 Sec. 22. 1998 Iowa Acts, chapter 1197, section 13,
9 43 is amended to read as follows:

9 44 SEC. 13. EFFECTIVE DATES REPEALS.

9 45 1. This division and Division I of this Act, being
9 46 deemed of immediate importance, take effect upon
9 47 enactment.

9 48 2. Division I of this Act is repealed June 30,

9 49

~~2000~~

- ~~2002~~.

9 50 3. Division II of this Act takes effect July 1,

10 1

~~2000~~

- ~~2002~~.

10 2 Sec. 23. EFFECTIVE DATE. Section 22 of this Act,
10 3 being deemed of immediate importance, takes effect
10 4 upon enactment."

10 5 #2. Title page, by striking lines 1 through 5 and
10 6 inserting the following: "An Act relating to the
10 7 department of corrections and concerning the
10 8 establishment of reserve peace officers, the transfer
10 9 of patients to the Iowa medical and classification
10 10 center, the transcription and recording of testimony
10 11 in certain departmental investigations, inmate
10 12 accounts and work programs, the receipt and release of
10 13 certain records by the department, the use of force by
10 14 correctional or peace officers, the establishment of a
10 15 vice chairperson for the board of parole, the delayed
10 16 repeal of the sixth judicial district pilot project
10 17 concerning probation revocation hearings, and
10 18 providing an effective date."

10 19 #3. By renumbering as necessary.

10 20

10 21

10 22

10 23 COMMITTEE ON JUDICIARY

10 24 ANDY McKEAN, Chairperson

10 25 HF 2519.701 78

10 26 ec/cls