

PENAL AND CORRECTIONAL SYSTEMS STUDY COMMITTEE

Report to the Legislative Council
and the Members of the
First Session of the Sixty-sixth General Assembly
State of Iowa
1975

F I N A L R E P O R T

PENAL AND CORRECTIONAL SYSTEMS STUDY COMMITTEE

House Concurrent Resolution 26 and Senate Concurrent Resolution 26, introduced during the 1973 Session of the Sixty-fifth General Assembly, requested that the Iowa Legislative Council create a study committee for the 1973 and 1974 legislative interims to continue the study of the Iowa penal and correctional systems which had been conducted during the 1971 and 1972 legislative interims. The Legislative Council also directed the Penal and Correctional Systems Study Committee to conduct a study of the juvenile justice system of this state. HCR 26 and SCR 26 recommended that the Study Committee include nonlegislative members having special knowledge in the fields of penal and correctional facilities, rehabilitation, and other correctional programs. The membership of the Study Committee is as follows:

Senator E. Kevin Kelly, Chairman
Representative Donald V. Doyle, Vice Chairman
Senator Lucas DeKoster
Senator Minnette Doderer
Senator Gene W. Glenn
Senator Forrest V. Schwengels
Representative George J. Knoke
Representative Joan Lipsky
Representative Harold C. McCormick
Representative Richard W. Welden
Judge Forrest E. Eastman
Professor Josephine Gittler
Mr. Donald C. Hoskins
Assistant Police Chief Eugene Johnson
Ms. Helena Burrell
Mr. Terry Sallis (replaced by Mr. Arthur Williams)
Mr. David Dowell

At its initial meeting the Study Committee agreed to concentrate the majority of its efforts in the area of the Iowa juvenile justice system, while maintaining contact with the adult correctional institutions through the Study Committee's inmate members and by visitations to the adult correctional institutions. Also at its initial meeting the Study Committee decided to hold hearings concerning the effectiveness and recommendations for change in Chapter 231 of the Code, relating to the organization and financing of the juvenile court, and Chapter 232 of the Code relating to the procedural and substantive law governing the juvenile court.

On July 1, 1974 the Study Committee met to hear testimony concerning Chapter 231 of the Code. Persons presenting testimony were:

Mr. George Orr, Director, Iowa Crime Commission
Associate Professor Martin Miller, Systems Research
Unit of the Iowa Youth Services, Office for
Planning and Programming
Ms. Jan Winslow, Iowans for Better Justice
Mr. Bill Wilcken, President, Probation Officers
Association
Ms. Karla Fultz, Assistant Polk County Attorney
Mr. Blaine Lytle, Superintendent, Perry Community Schools
Mr. Carl Noltze, Juvenile Probation Office, Woodbury County
Mr. Carl Parks, Director, Polk County Juvenile Court
Professor Lucien Zamorski, American Friends
Ms. Sandy Scott, Department of Social Services
Mr. Darrel McTaffer, Juvenile Court Referee
The Honorable Leo Oxberger, Judge, Fifth Judicial District

On August 6, 1974 the Study Committee met to hear testimony concerning Chapter 232 of the Code. Persons presenting the testimony were:

Associate Professor Martin Miller, Director, Systems
Research Unit of the Iowa Youth Services System, Office
for Planning and Programming
Mr. Thomas Irwin, Director, Bureau of Youth Services,
Department of Social Services
Mr. Gordon E. Allen, Staff Counsel, Iowa Civil Liberties
Union
The Honorable David F. Halbach, Associate District Court
Judge, District Court Judges Association
Professor Lucian Zamorski, Augusta College, American
Friends
Professor Art Ryman, Drake University College of Law
Mr. William W. Wilken, President, Iowa Juvenile Probation
Officers Association
Mr. Carl Noltze, Juvenile Probation Officer, Woodbury
County
Professor Jan Johnson, Drake University College of Law,
Iowa Women's Political Caucus
Mrs. Nadean Hamilton, Chairperson, Juvenile Justice
Study Committee, League of Women Voters
Mr. Jim Clayton, Iowa Children and Family Services of
Des Moines
Ms. Marilyn Murphy, Chairperson, Siouxsland Youth Needs
Planning Committee
Ms. Margaret Stephens, Corporate Council, Davenport,
Iowa
Mr. Carl Parks, Director, Polk County Juvenile Court
The Honorable Leo Oxberger, District Court Judge

The Study Committee visited the State Juvenile Home at Toledo, the State Training School for Boys at Eldora, and the State Training School for Girls. Because of its responsibility and continued interest in the adult correctional facilities the Study Committee also visited the State Penitentiary at Fort Madison, the Women's Reformatory at Rockwell City, and the Riverview Release Center at Newton.

The Study Committee focused its attention on the effectiveness of the Iowa juvenile justice system and means of improving the system through legislation. During its investigation the Study Committee met with various residents, institutional staff, and administrators in order to determine how the juvenile institutions and the juvenile justice system may be improved.

The Study Committee also met with inmates, institutional staff, and administrators of the adult correctional institutions in order to assess the current status of these institutions. As a result of its study and recent incidents occurring at the State Penitentiary the Study Committee issued the follow "Statement of Concern".

STATEMENT OF CONCERN

While the Penal and Correctional Systems Study Committee did concentrate the majority of its work and efforts in the area of the Iowa juvenile justice system, the Study Committee did have the opportunity to visit two of the adult correctional institutions and communicate with the residents, staff and administration of the three state adult correctional institutions. These sources and other information received by the Study Committee has caused it grave concern, at least over the administration of Fort Madison. The Study Committee believes that the ingredients that cause disruption and violence within a prison are now present at Fort Madison. Serious violent confrontations would be a set back for many of the Study Committee's goals and accomplishments.

The concern felt by the members of the Study Committee has not been engendered by a cursory study of the situation nor by a few disenchanting residents, staff or administrative personnel. The concern expressed by the Study Committee has resulted from nearly four years of study, visitations, and communications with a number of institution residents, staff, and administrators (in 1971, 1972, and 1973 the Penal and Correctional Systems Study Committee concentrated its efforts in the area of the Iowa adult correctional systems). Recent violent incidents which occurred at Fort Madison and the tension as a result of such incidents have brought this concern to a point where the Study Committee would be remiss in its duty to the people of Iowa if it failed to address itself to the causes of the problem.

The members of the Study Committee strongly emphasize and request the correction of the following concerns:

1. The over-emphasis of security and authority at the apparent expense of vocational training and academic programs for the purposes of rehabilitation, resocialization, and reformation.

2. The almost total lack of programs designed to assist the inmates in overcoming the problems and disabilities which originally caused them to express antisocial behavior. For example there are currently no drug or alcohol abuse programs in operation at the state penitentiary. There is also a lack of sufficient community involvement programs.
3. The apparent breakdown of all lines of meaningful communications between inmates, staff, and administration. This apparent breakdown has resulted in deep-seated fears and mistrust among the three levels and between the three levels.
4. The lack of clearly established rights, duties, and responsibilities of all concerned and the apparent inconsistent application of rules and regulations.

During its study, the Study Committee reviewed and discussed the following subject areas:

1. Several persons appeared to present testimony concerning the organization of the juvenile court and recommended the establishment of a family court system in Iowa. The major reason forwarded in support of the family court is that the jurisdiction of the family court would place the court in a position to consider the entire family and therefore render decisions which would more effectively serve the entire family. The major issues raised by the Study Committee in discussing the family court included; the extent of the subject matter jurisdiction of the family court, whether the family court should be vested with original and exclusive jurisdiction, and whether the establishment of a family court would necessitate the creation of additional judgeships. Some members of the Study Committee expressed the opinion that the family court concept should be the subject of further study.

2. Several persons appeared to present testimony concerning the organization of the juvenile court and recommended that juvenile court judges be divested of their responsibilities of administering and supervising juvenile probation officers. The major reason forwarded in support of divesting the juvenile court judges of these responsibilities is that a probation officer who is directly responsible to a judge may be overly influenced by the judges personal philosophy and that the juvenile court should not be actively involved in the correctional process. In discussing this issue the Study Committee considered placing the administration and supervision of juvenile probation officers under the administrative branch of the Iowa Supreme Court, the Department of Social Services, or an independent state agency. Some of the members of the Study Committee expressed the opinion that any attempt to reorganize the juvenile probation officers should reflect the need to maintain some degree of local autonomy and control.

3. Presently the same probation officer may perform the "intake" functions (initial contact with the juvenile and the parents when the juvenile is brought to the attention of the authorities, initial counseling, investigation, and court appearances) and the treatment functions (services provided at the direction of the juvenile court after a disposition has been made) for the same juvenile. The Study Committee is concerned that a probation officer who investigates a juvenile and presents testimony to the court concerning the juvenile may be forced to make statements or decisions which may cause the probation officer to lose rapport or incur the animosity of the juvenile or the parents, thus hindering the probation officer's ability to effectly treat the juvenile. The Study Committee recommends that further study be made concerning the feasibility, practicality, and advisability of separating the "intake" functions and "treatment" functions of probation officers and that the study include an examination of additional funding which may be necessitated by this plan.

4. The rural character of the location of the Women's Reformatory affects the availability of educational programs, rehabilitative programs, and employment opportunities which are more abundant in an urban setting. These programs and opportunities are needed by the residents of the institution in order to enhance their chances of becoming productive members of society. The Study Committee endorses the Department of Social Services plan to close the Women's Reformatory, but recommends that the closing not occur until improved programs and facilities are available and that the Department of Social Services make every effort to attain this goal as soon as possible.

5. Presently a delinquent juvenile who is institutionalized is committed to one of the two state training schools dependent on the sex of the juvenile. Many of the juveniles committed to these institutions have experienced difficulty in relating to the members of the opposite sex. By segregating these juveniles according to sex an abnormal living environment is created and the problems experienced in relating to members of the opposite sex cannot be effectively addressed by the institutions. The Study Committee endorses the Department of Social Services plan to make the Boys' Training School and the Girls' Training School coeducational, but recommends that only one of the institutions be used for all juvenile offenders, thus freeing the other facility for other purposes.

As a result of its study and investigation the Study Committee makes the following legislative recommendations to the General Assembly:

1. Presently a juvenile who has not committed a public offense may be adjudged a delinquent if a petition is filed against the juvenile alleging that the juvenile is "uncontrolled by his parents", "wayward", or "habitually disobedient". The Study Committee recommends that only juveniles who have been adjudged

guilty of a criminal offense be deemed delinquent and that juveniles who are "uncontrolled by parents", "wayward", or "habitually disobedient" and juveniles who are presently labeled "neglected" or "dependent" be labeled "children in need of assistance". In addition the Study Committee recommends that a juvenile who wishes to have his or her parents relieved of his or her care and custody may have the court adjudicate the juvenile as a "child in need of assistance". The Study Committee also recommends that the evidentiary standard of "beyond a reasonable doubt" be used in cases of delinquency. A bill draft is attached and by this reference made a part of this report. (Bill I)

2. The Study Committee recommends that the summons and notice of a juvenile court hearing served upon the persons in legal custody of a juvenile contain a notation that such persons may request the court to appoint counsel and that the language referring to legitimate and illegitimate children be deleted as antiquated language. A bill draft is attached and by this reference made a part of this report. (Bill II)

3. Presently a juvenile offender subject to the jurisdiction of the juvenile court may be transferred to the criminal court after a hearing in the juvenile court. Presently the Iowa Code does not provide for statutory procedural due process guarantees at this hearing. The Study Committee recommends the procedural due process rights be afforded to a juvenile who is subject to a hearing to determine whether the juvenile should be transferred to the jurisdiction of the criminal court. A bill draft is attached and by this reference made a part of this report. (Bill III)

4. Since a person tried in a criminal court is generally afforded a greater degree of due process guarantees than a person tried in a juvenile court, the Study Committee recommends that a juvenile sixteen years of age or older alleged to have committed a public offense may request the juvenile court to transfer the jurisdiction of the juvenile to the criminal court. A bill draft designed to carry out this proposal is attached and by this reference made a part of this report. (Bill IV)

5. During the course of its study the Study Committee was made aware of children who had been detained by law enforcement authorities for periods in excess of two weeks without the benefits of an adversary hearing. The Study Committee recommends that a child who has been detained for forty-eight hours be afforded an adversary hearing on the issue of continued detention as soon as practicable. A bill draft is attached and by this reference made a part of this report. (Bill V)

6. Presently the Code of Iowa provides that certain fringe benefits be provided to employees of the state correctional institutions. Since these fringe benefits are no longer appropriate or necessary the Study Committee recommends that the sections providing these benefits be repealed. A bill draft is attached and by this reference made a part of this report. (Bill VI)

7. The Study Committee recommends that section 246.4 of the Code be repealed to conform with the Fair Labor Standards Act. A bill draft is attached and by this reference made a part of this report. (Bill VII)

8. Presently a person who has been granted a work release from one of the correctional institutions may only be granted a work release for six months in any twelve-month period. This limitation has required several persons who were successfully employed or who were pursuing an academic course of study to be returned to the institution before achieving the full benefits of the work release program. The Study Committee recommends that the six month limitation on work release be extended with the unanimous consent of the Work Release Board and that an inmate may be granted work release on his own recognizance. A bill draft is attached and by this reference made a part of this report. (Bill VIII)

9. Presently an inmate who is serving a sentence for which he could have received a life sentence is ineligible for the furlough program. The Study Committee recommends that all inmates except those serving an uncommuted life sentence be eligible for the furlough program. A bill draft is attached and by this reference made a part of this report. (Bill IX)

10. Presently an inmate who is discharged from a correctional institution after serving his entire sentence is released into the community without supervision. The Study Committee recommends that all inmates be released prior to the expiration of their sentence in order that they may be provided with supervision upon release. A bill draft is attached and by this reference made a part of this report. (Bill X)

11. Presently the Board of Parole has the authority to set the term of probation for all probationers supervised by the Department of Social Services. The Study Committee recommends that setting the term of probation be under the jurisdiction of the sentencing court. A bill draft is attached and by this reference made a part of this report. (Bill XI)

12. The cash depreciation fund for the Iowa State Penitentiary was deleted from the Code. The Study Committee recommends that this fund again be authorized in the Code. A bill draft is attached and by this reference made a part of this report. (Bill XII)

13. Since other provisions of the Code are sufficient to treat sexual offenders the Study Committee recommends that Chapter 225A, relating to criminal sexual psychopath, be repealed. A bill draft is attached and by this reference made a part of this report. (Bill XIII)

14. The Study Committee recommends that the full text of the Probation and Parole Compact be written into the Code in order that it will be accessible to the general public. A bill draft is

attached and by this reference made a part of this report. (Bill XIV)

15. Due to the Morrissey v. Brewer United States Supreme Court decision a person alleged to have violated the conditions of his or her parole or probation must be granted a hearing. The Study Committee endorses the principle of probation and parole revocation hearings.

16. The State of Iowa is a signatory to the Interstate Corrections Compact which authorizes the exchange of prisoners with other signatory jurisdictions. The federal government, however, is not a signatory to the Interstate Corrections Compact and additional authorization is necessary to enable the State of Iowa to transfer prisoners to a federal correctional institution. The Study Committee recommends that the Bureau of Adult Corrections be authorized to transfer prisoners to federal correctional institutions. A bill draft is attached and by this reference made a part of this report. (Bill XVI)

17. During the first session of the Sixty-ninth General Assembly Senate File 482 was enacted which amended section 247.21, Code 1973. Later in the session Senate File 26 was enacted which repealed section 247.21 and inserted the section as a new section as it appeared in the 1973 Code. The Study Committee recommends that the new provision be amended to fully implement the purposes of the community based corrections program established by Senate File 482. A bill draft is attached and by this reference made a part of this report. (Bill XVII)

18. Several jurisdictions have experienced success with a program called "shock probation". Under this program a person committed to a correctional institution may have the commitment reviewed within ninety days by the sentencing judge who may revoke the commitment and release the person on probation. The underlying rationale for this program is that the real deterrent effect of commitment is experienced in the first few months of incarceration and that a person incarcerated for a longer period of time becomes acclimated to institutional living and the deterrent effect is lost. A bill draft is attached and by this reference made a part of this report. (Bill XVIII)

During the course of its two-year study the Study Committee has addressed itself to the problems of the Iowa juvenile justice system and the problems of the Iowa adult correctional system. In both of these areas the Study Committee has been confronted with complex problems and equally complex solutions and alternatives. Since both of these areas have demanded a part of the Study Committee's time and effort during each of the last two years, it has been nearly impossible for the Study Committee to devote the time and research necessary to develop extensive, well conceived, and workable legislation designed to improve either system. The Study Committee recommends that the Penal and Correctional Systems Study Committee be continued during the next

legislative interim with responsibilities only in the area of the adult correctional system and that another study committee be created for the next legislative interim with responsibilities only in the area of the Iowa juvenile justice system.

Bill 1

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

A BILL FOR

1 An Act relating to neglected, dependent, and delinquent children.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section two hundred thirty-two point two
2 (232.2), subsection twelve (12), Code 1975, is amended by striking
3 paragraphs c and d.

4 Sec. 2. Section two hundred thirty-two point two (232.2),
5 subsections thirteen (13) and fourteen (14), Code 1975, are amended
6 by striking the subsections and inserting in lieu thereof the
7 following:

8 13. "Child in need of assistance" means a child:

9 a. Who is without a parent, guardian, or other custodian.

10 b. Who is in need of special care and treatment required
11 by his physical or mental condition which the parents, guardian,
12 or other custodian is unable to provide.

13 c. Whose parents, guardian, or other custodian for good
14 cause desires to be relieved of his care and custody.

15 d. Who is abandoned by his parents, guardian, or other
16 custodian.

17 e. Who for good cause desires to have his parents
18 relieved of his care and custody.

19 f. Who is without proper parental care because of the
20 emotional, mental, or physical disability, or state of immaturity
21 of his parents, guardian, or other custodian.

22 g. Who is without proper parental care because of the
23 faults or habits of his parents, guardian, or other custodian.

24 h. Who is living under conditions injurious to his
25 mental or physical health or welfare.

26 i. Who is uncontrolled by his parents, guardian, or
27 legal custodian by reason of being wayward or habitually
28 disobedient.

29 j. Who habitually deports himself in a manner that is
30 injurious to himself or others.

31 Sec. 3. Section two hundred thirty-two point twenty-
32 one (232.21), Code 1975, is amended to read as follows:

33 232.21 JUVENILE HOME MAY BE MAINTAINED. County boards
34 of supervisors may either singly or in conjunction with one or
35 more other counties provide and maintain, separate, apart, and

1 person making such a report, study, or examination shall be subject
2 to both direct and cross examination when reasonably available.
3 The court's finding with respect to delinquency shall be based
4 on the evidentiary standard of beyond a reasonable doubt.

5 Sec. 6. Section two hundred thirty-two point thirty-
6 three (232.33), unnumbered paragraph one (1), Code 1975, is amended
7 to read as follows:

8 232.33 DISPOSITION OF CASE OF ~~NEGLECT-OR-DEPENDENCY~~
9 CHILD IN NEED OF ASSISTANCE. If the court finds that the child
10 is neglected-or-dependent in need of assistance the court shall
11 enter an order making any one or more of the following dispositions
12 of the case:

13 Sec. 7. Section two hundred thirty-two point forty-one
14 (232.41), paragraph e, Code 1975, is amended to read as follows:

15 e. That following an adjudication of ~~neglect-or-~~
16 dependency that a child is in need of assistance, reasonable
17 efforts under the direction of the court have failed to correct
18 the conditions leading to the termination.

19 Sec. 8. Section two hundred thirty-two point forty-seven
20 (232.47), Code 1975, is amended to read as follows:

21 232.47 ORDER OF COURT. If after a hearing the court
22 does not terminate the parent-child relationship but determines
23 that ~~conditions-of-neglect-or-dependency-exist~~ the child is in
24 need of assistance, the court may ~~find-the-child-neglected-or-~~
25 ~~dependent-and~~ may enter an order in accordance with the provisions
26 of section 232.33.

27 Sec. 9. Section two hundred thirty-two point fifty-five
28 (232.55), Code 1975, is amended to read as follows:

29 232.55 PETITIONS AND REPORTS SEGREGATED. The proceedings
30 concerning delinquency petitions filed by ~~parents~~ and petitions
31 concerning ~~neglected-or-dependent-children~~ children in need of
32 assistance; the reports of juvenile court probation officers,
33 social workers, doctors, and psychologists; and the reports of
34 juvenile homes shall not be public records, but the court may
35 make them public in its discretion.

1 Sec. 10. Section two hundred thirty-two point sixty-
2 three (232.63), Code 1975, is amended to read as follows:

3 232.63 WHEN JURISDICTION IS EXCLUSIVE. The juvenile
4 court shall have exclusive original jurisdiction, only, in
5 proceedings concerning any child alleged to be delinquent,
6 ~~neglected, or dependent~~ or a child alleged to be in need of
7 assistance, and in proceedings for termination of parental rights
8 under sections 232.41 through 232.50, and in proceedings concerning
9 any minor alleged to have been a delinquent prior to having become
10 eighteen years of age except as otherwise provided by law.

11 Sec. 11. Section two hundred thirty-two point sixty-
12 eight (232.68), Code 1975, is amended to read as follows:

13 232.68 VENUE. Venue for ~~neglect, dependency~~ children
14 in need of assistance and delinquent proceedings shall be in the
15 county where the minor is found or in the county of the minor's
16 residence. If a minor is alleged to be delinquent, the county
17 where the alleged delinquency occurred shall also have venue.

18 Sec. 12. Section two hundred thirty-two point sixty-
19 nine (232.69), Code 1975, is amended to read as follows:

20 232.69 TRANSFER OF VENUE. The judge may transfer any
21 proceedings brought under this chapter to the court of any county
22 having venue at any stage of the proceedings and in the following
23 manner:

24 1. When it appears that the best interests of the minor,
25 society, or the convenience of the proceedings shall be served
26 by a transfer, the court may transfer the case to the court of
27 the county of the minor's residence.

28 2. With the consent of the receiving court, the court
29 may transfer the case to the court of the county where the minor
30 is found.

31 3. With the consent of the receiving court, the court
32 may transfer the case to the county where the alleged delinquency
33 occurred ~~if an alleged delinquency is based on the commission~~
34 ~~of a public offense.~~

35 Sec. 13. Chapter two hundred thirty-two (232), Code

1 1975, shall be titled "CHILDREN IN NEED OF ASSISTANCE AND
2 DELINQUENT CHILDREN".

3 EXPLANATION

4 This bill provides that only a juvenile who has committed
5 a criminal offense will fall under the definition of a delinquent
6 child. This bill also provides for the creation of a "child in
7 need of assistance" category which includes dependent children,
8 neglected children, and the status offenses of delinquency. In
9 addition, this bill provides that a juvenile may be labeled "child
10 in need of assistance", if the juvenile wishes to have his parents
11 relieved of his care and custody. This bill also provides that
12 an allegation of delinquency must be proved beyond a reasonable
13 doubt.

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BILL II

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

A BILL FOR

1 An Act relating to the issuance of a summons and notice by the
2 juvenile court.

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

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1 Section 1. Section two hundred thirty-two point four
2 (232.4), Code 1975, is amended to read as follows:

3 232.4 HEARING--APPEARANCE--SUMMONS. After a petition
4 has been filed and unless the parties named in section 232.5
5 voluntarily appear, the court shall set a time for hearing
6 and shall issue a summons requiring the person who has custody
7 or control of the child to appear with the child before the
8 court at a time and place stated. The summons shall recite
9 briefly the substance of the petition or shall have attached
10 a copy of the petition and shall give notification of the
11 right to counsel provided for in section 232.28 and of the
12 right to request the court to appoint counsel.

13 Sec. 2. Section two hundred thirty-two point five (232.5),
14 Code 1975, is amended to read as follows:

15 232.5 SERVICE OF NOTICE. The court shall have notice
16 of the pendency of the case and of the time and place of the
17 hearing served upon the acknowledged parents, and upon the
18 guardian, or legal custodian of a legitimate child ~~or upon~~
19 ~~the mother, guardian, or legal custodian of an illegitimate~~
20 ~~child~~ if they are not summoned to appear as provided in section
21 232.4. The notice shall recite briefly the substance of the
22 petition or shall have attached a copy of the petition and
23 shall give notification of the right to counsel provided for
24 in section 232.28 and of the right to request the court to
25 appoint counsel.

26 EXPLANATION

27 This bill provides that the parents, guardian, and legal
28 custodian of a juvenile shall be notified of their right to
29 counsel in the summons and notice. This bill also provides
30 that distinction between serving notice upon the parents of
31 a legitimate child and an illegitimate child be deleted and
32 that the term acknowledged be inserted before the word parent.

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BILL III

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

A BILL FOR

1 An Act relating to the transfer of a child from the juvenile
2 court to the criminal court.

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

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1 Section 1. Chapter two hundred thirty-two (232), Code
2 1975, is amended by adding the following new section:

3 NEW SECTION. CHILD'S RIGHTS AT TRANSFER HEARING. When
4 a hearing is held to determine whether a child shall be trans-
5 ferred to the appropriate prosecuting authority for proper
6 action under the criminal law the child shall:

7 1. Be afforded the right to be represented by counsel
8 at the hearing.

9 2. Be notified of the time and place of the hearing, at
10 least five days prior to the hearing excluding Saturdays,
11 Sundays, and legal holidays.

12 3. Be given access to the written report of the social
13 investigation and all other material or information used by
14 the court in reaching its decision.

15 4. Be afforded the opportunity to introduce evidence
16 favorable to the child and rebutt any evidence introduced
17 or information and material provided to the court which is
18 not favorable to the child.

19 EXPLANATION

20 This bill provides that a child has the right to legal
21 counsel, notification of the time and place of the hearing,
22 access to information and material before the court, and the
23 opportunity to introduce evidence and rebutt evidence when
24 a hearing is held to transfer the child from the juvenile
25 court to the criminal court.

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BILL IV

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

A BILL FOR

1 An Act relating to the right of a child to have his or her
2 case transferred to the criminal court.

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

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1 Section 1. Chapter two hundred thirty-two (232), Code
2 1975, is amended by adding the following new section:

3 NEW SECTION. JUVENILES REQUEST FOR TRANSFER. Upon the
4 motion of a child sixteen years of age or older alleged to
5 have committed a public offense, the juvenile court, after
6 a hearing, may refer the alleged violation to the appropriate
7 prosecuting authority for prosecution in the criminal courts.

8 EXPLANATION

9 This bill provides that a child sixteen years of age or
10 more may have his or her case transferred from the juvenile
11 court to the criminal court.

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BILL V

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

A BILL FOR

1 An Act relating to the detention of a child prior to the adjudi-
2 cative hearing.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section two hundred thirty-two point seventeen
2 (232.17), Code 1975, is amended by striking the section and
3 inserting in lieu thereof the following:

4 232.17 DETENTION OF CHILD.

5 1. If a child is not released as provided in section two
6 hundred thirty-two point sixteen (232.16) of the Code, the
7 person taking the child into custody shall notify the court
8 as soon as possible of the detention of the child and the
9 reasons for the detention. The child shall be taken
10 immediately to a place of detention specified in section two
11 hundred thirty-two point eighteen (232.18) of the Code and
12 shall be held for not more than twenty-four hours after the
13 taking into custody, unless an order signed by the judge for
14 detention in excess of twenty-four hours is issued which
15 specifies the reason for the excess detention.

16 2. A child shall not be held longer than forty-eight hours
17 after the taking into custody, unless a petition has been
18 filed and the judge, for good cause shown, determines that
19 the child shall remain in custody or unless the court refers
20 the matter to the prosecuting authority for proper action
21 in the criminal court.

22 3. If the judge determines that a child should be detained
23 longer than forty-eight hours an adversary hearing to determine
24 whether detention of the child should be continued shall be
25 held as soon as practicable and shall be given priority on
26 the court's docket.

27 4. The parents, guardian, or custodian of the child shall
28 be notified as soon as possible of their right to counsel,
29 their right to request the court to appoint counsel, and the
30 place of detention of the child.

31 5. If continued detention is not ordered pursuant to
32 subsections one (1), two (2), and three (3) of this section,
33 the court or designated officer shall release the child in
34 the manner provided in section two hundred thirty-two point
35 sixteen (232.16) of the Code.

EXPLANATION

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2 This bill provides for the reorganization of the existing
3 provisions of section 232.17 of the Code into subsections.
4 In addition this bill provides that a judge must find good
5 cause to order detention of a child beyond forty-eight hours.
6 This bill also provides that the parents be notified of the
7 right to counsel and the right to request the court to appoint
8 counsel. This bill also provides that, if the court determines
9 that the child should be detained for longer than forty-eight
10 hours, an adversary hearing must be held as soon as practicable
11 and that it be given priority on the court's docket.

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BILL VI

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

A BILL FOR

1 An Act relating to the repeal of certain fringe benefits
2 for employees of correctional institutions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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Section 1. Sections two hundred forty-six point three (246.3), two hundred forty-six point six (246.6), and two hundred forty-six point seven (246.7), Code 1975, are repealed.

EXPLANATION

This bill provides for the repeal of the sections of the Code which provide that the wardens shall receive domestic service from the inmate population and a dwelling. This bill also repeals the section which provides that the state director shall set salaries for certain correctional employees and provide uniforms to newly employed custodial staff.

LSB 419
be/rh/31

Bill VII

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

A BILL FOR

1 An Act relating to the payment of pay to correctional em-
2 ployees for work performed in excess of eight hours per
3 day.

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

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1 Section 1. Section two hundred forty-six point four
2 (246.4), Code 1975, is repealed.

3 EXPLANATION

4 This bill provides for the repeal of pro rata pay to certain
5 correctional employees for work performed in excess of eight
6 hours a day. This section is superseded since the Fair Labor
7 Standards Act of 1974 covers this situation and provides in
8 most cases for payment of work performed in excess of forty
9 hours per week at a rate of one and one-half times normal
10 salary.

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LSB 407
be/cw/4

BILL VIII

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

A BILL FOR

1 An Act relating to work release programs for inmates of
2 institutions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section two hundred forty-seven A point five
2 (247A.5), Code 1975, is amended to read as follows:

3 247A.5 HOUSING FACILITIES. The department shall designate
4 and adopt facilities in the institutions and camps under its
5 jurisdiction for the housing of inmates granted work release
6 privileges. In areas where facilities are not within
7 reasonable proximity of the place of employment of an inmate
8 so released, the department may contract with the proper
9 authorities of political subdivisions of the state or suitable
10 public or private agencies for the quartering of the inmate
11 in local housing facilities. The committee shall include
12 as a specific term or condition in the work release plan of
13 any inmate the place where the inmate is to be housed when
14 not on the work assignment. The committee shall not place
15 an inmate on work release for longer than six months in any
16 twelve-month period without unanimous consent of the committee.
17 Inmates may be temporarily released to the supervision of
18 a responsible person on his own recognizance in accordance
19 with case needs to participate in family and selected
20 community, religious, educational, social, civic and
21 recreational activities when it is determined that the
22 participation will directly facilitate the release transition
23 from institution to community.

24 EXPLANATION

25 This bill provides that work releases may be temporarily
26 granted to prisoners on their own recognizance to participate
27 in appropriate community activities. This bill also provides
28 for a work release placement longer than six months with the
29 unanimous consent of the work release committee.

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

A BILL FOR

1 An Act relating to the granting of furloughs to inmates.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section two hundred seventeen point fourteen
2 (217.14), unnumbered paragraph two (2), Code 1975, is amended
3 to read as follows:

4 The commissioner of social services may establish for any
5 inmate sentenced pursuant to section 769.43, except an inmate
6 servng an uncommuted life sentence, a furlough program under
7 which inmates sentenced to and confined in an institution
8 under the jurisdiction of the department of social services
9 may be temporarily released. Furloughs for a period not to
10 exceed fourteen days may be granted when an immediate member
11 of the inmate's family is seriously ill or has died, when
12 an inmate is to be interviewed by a prospective employer,
13 or when an inmate is authorized to participate in a training
14 program not available within the institution. Furloughs for
15 a period not to exceed fourteen days may also be granted in
16 order to allow the inmate to participate in programs or
17 activities that serve rehabilitative objectives. The
18 commissioner of social services shall promulgate rules and
19 regulations to carry out the provisions of this paragraph.

20 EXPLANATION

21 This bill permits the commissioner of social services to
22 establish furlough programs for inmates convicted of a crime
23 for which a life sentence could have been granted, except
24 those persons serving uncommuted life sentences.

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Bill X

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

A BILL FOR

1 An Act relating to conditional release for inmates of cor-
2 rectional institutions.

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

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1 Section 1. Chapter two hundred forty-six (246), Code 1975,
2 is amended by adding the following new section:

3 NEW SECTION. CONDITIONAL RELEASE. Unless otherwise legally
4 released all inmates of the penitentiary, men's reformatory
5 and women's reformatory shall be released six months or one-
6 fourth of their sentence, whichever is the least, prior to
7 the expiration of their sentence. Inmates released pursuant
8 to this section shall be supervised in the same manner as
9 provided in chapter two hundred forty-seven (247) of the Code.

10 EXPLANATION

11 This bill provides that all inmates be granted an early
12 release to allow for a minimal period of supervision when
13 returned to society.

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BILL XI

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

A BILL FOR

1 An Act relating to the use of probation by the court.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section seven hundred eighty-nine A point two
2 (789A.2), unnumbered paragraph one (1), Code 1975, is amended
3 to read as follows:

4 The length of the probation shall be for such term as the
5 court may fix but not to exceed five years if the offense
6 is a felony or not to exceed two years if the offense is a
7 ~~misdemeanor unless the person is ordered placed under the~~
8 ~~supervision of the chief parole officer, in which case the~~
9 ~~term of probation shall be determined by the board of parole~~
10 ~~and the probation of the defendant shall be supervised by~~
11 ~~the chief parole officer.~~

12 Sec. 2. Section seven hundred eighty-nine A point six
13 (789A.6), Code 1975, is amended to read as follows:

14 789A.6 DISCHARGE FROM PROBATION. At any time that the
15 court determines that the purposes of probation have been
16 fulfilled, the court may order the discharge of any person
17 on probation. At the expiration of the period of probation,
18 ~~in cases where the court fixes the term of probation,~~ the
19 court shall order the discharge of such person from probation,
20 and the court shall forward to the governor a recommendation
21 for or against restoration of citizenship rights to such
22 person. A person who has been discharged from probation shall
23 no longer be held to answer for his offense. Upon discharge
24 from probation, if judgment has been deferred under section
25 one (1) of this Act, the court's criminal record with reference
26 to the deferred judgment shall be expunged. The record
27 maintained by the supreme court administrator required by
28 section one (1) of this Act shall not be expunged. The court's
29 record shall never be expunged in any other circumstances
30 except as provided in section six hundred two point fifteen
31 (602.15) of the Code.

32 EXPLANATION

33 This bill provides that when a probationer is placed under
34 the supervision of the chief probation officer the authority
35 to set the length of probation shall be with the court and
36 not the board of parole.

BILL XII

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

A BILL FOR

1 An Act relating to the cash depreciation fund for the prison
2 industries.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Chapter two hundred forty-six (246), Code 1975,
2 is amended by adding the following new section:

3 NEW SECTION. CASH DEPRECIATION FUND. The prison industries
4 administration shall remit to the treasurer of state each
5 month a cash sum equal to the amount of calculated depreciation
6 on the equipment owned and operated by the prison industries.

7 The treasurer of state shall deposit such cash sums to
8 a fund entitled the prison industry depreciation fund, which
9 fund is not revertible to the state general fund, the fund
10 shall be used to replace obsolete and worn out equipment as
11 needed. Expenditures and transfers from this fund shall be
12 made in the same manner as from any funds that are processed
13 through the department of general services and in the manner
14 approved by the state comptroller.

15 EXPLANATION

16 This bill provides for the creation of a prison industry
17 depreciation fund to be used to replace worn out and obsolete
18 equipment.

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BILL XIII

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

A BILL FOR

1 An Act relating to the criminal sexual psychopath law.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Section 1. Chapter two hundred twenty-five A (225A), Code
1975, is repealed.

EXPLANATION

This bill provides for the repeal of the criminal sexual
psychopath law.

Bill XIV

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

A BILL FOR

1 An Act relating to the interstate probation and parole
2 compact.

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

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1 Section 1. Chapter two hundred forty-seven (247), Code
2 1975, is amended by adding the following new section:

3 NEW SECTION. INTERSTATE PROBATION AND PAROLE COMPACT.
4 Since the state of Iowa has been a signatory to the interstate
5 probation and parole compact since 1937 by action of the
6 governor pursuant to section two hundred forty-seven point
7 ten (247.10) of the Code, the general assembly deems it
8 advisable to enter the full text of the compact into the Code
9 for easy accessibility by the general public.

10 The interstate probation and parole compact is hereby
11 placed in the Code as entered into by this state with other
12 states legally joining therein in the form substantially as
13 follows:

14 THE INTERSTATE PROBATION AND PAROLE COMPACT

15 Entered into by and among the contracting states,
16 signatories hereto, with the consent of the congress of the
17 United States of America, granted by an act entitled "An act
18 granting the consent of congress to any two or more states
19 to enter into agreements or compacts for cooperative effort
20 and mutual assistance in the prevention of crime and for other
21 purposes."

22 "The contracting states solemnly agree:

23 1. That it shall be competent for the duly constituted
24 judicial and administrative authorities of a state party to
25 this compact, to permit any person convicted of an offense
26 within such state and placed on probation or released on
27 parole to reside in any other state party to this compact,
28 while on probation or parole, if:

29 a. Such person is in fact a resident of or has his family
30 residing within the receiving state and can obtain employment
31 there.

32 b. Though not a resident of the receiving state and not
33 having his family residing there, the receiving state consents
34 to such person being sent there. Before granting such
35 permission, opportunity shall be granted to the receiving

1 state to investigate the home and prospective employment of
2 such person.

3 A resident of the receiving state, within the meaning of
4 this section, is one who has been an actual inhabitant of
5 such state continuously for more than one year prior to his
6 coming to the sending state and has not resided within the
7 sending state more than six continuous months immediately
8 preceding the commission of the offense for which he has been
9 convicted.

10 2. That each receiving state will assume the duties of
11 visitation of and supervision over probationers or parolees
12 of any sending state and in the exercise of those duties will
13 be governed by the same standards that prevail for its own
14 probationers and parolees.

15 3. That duly accredited officers of a sending state may
16 at all times enter a receiving state and there apprehend and
17 retake any person on probation or parole. For that purpose
18 no formalities will be required other than establishing the
19 authority of the officer and the identity of the person to
20 be retaken. All legal requirements to obtain extradition
21 of fugitives from justice are hereby expressly waived on the
22 part of states party hereto, as to such persons. The decision
23 of the sending state to retake a person on probation or parole
24 shall be conclusive upon and not reviewable within the
25 receiving state. Provided, however, that if at the time when
26 a state seeks to retake a probationer or parolee there should
27 be pending against him within the receiving state any criminal
28 charge, or he should be suspected of having committed within
29 such state a criminal offense, he shall not be retaken without
30 the consent of the receiving state until discharged from
31 prosecution or from imprisonment for such offense.

32 4. That the duly accredited officers of the sending state
33 will be permitted to transport prisoners being retaken through
34 any and all states parties to this compact, without
35 interference.

Bill XVI

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

A BILL FOR

1 An Act relating to exchange of inmates with federal bureau of
2 prisons.

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

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1 Section 1. Chapter two hundred forty-five (245), Code
2 1975, is amended by adding the following new section:

3 NEW SECTION. FEDERAL PRISONERS. Convicts sentenced for
4 any term by any court of the United States may be received
5 by the superintendent into the women's reformatory and there
6 kept in pursuance of their sentences. Convicts at the women's
7 reformatory may also be transferred to the federal bureau
8 of prisons.

9 Sec. 2. Chapter two hundred forty-six point eleven
10 (246.11), Code 1975, is amended to read as follows:

11 246.11 FEDERAL PRISONERS. Convicts sentenced for any term
12 at-hæd-læber by any court of the United States may be received
13 by the warden into the penitentiary or the men's reformatory
14 and there kept in pursuance of their sentences. Convicts
15 at either the penitentiary or men's reformatory may also be
16 transferred to the federal bureau of prisons.

17 EXPLANATION

18 This bill authorizes the department of social services
19 to enter into a contract with the federal government to send
20 prisoners to the federal bureau of prisons.

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Bill XVII

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

A BILL FOR

1 An Act relating to the supervision of probationers and
2 parolees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section seven hundred eighty-nine A point
2 seven (789A.7), subsection two (2), Code 1975, is amended to read
3 as follows:

4 2. Of the chief parole officer. The chief parole
5 officer shall ~~not, however,~~ may also accept the custody, care
6 and supervision of any person granted probation or parole from
7 a sentence to a term in a county jail ~~or any other person who~~
8 ~~in the judgment of the chief parole officer could not be properly~~
9 supervised. Jurisdiction of these persons shall remain with the
10 sentencing court. The chief parole officer shall not, however,
11 accept the custody, care and supervision of any person who in
12 his judgment could not be properly supervised.

13 EXPLANATION

14 This bill allows the chief probation officer to accept
15 the care, custody, and supervision of any person granted probation
16 or parole from a term in the county jail.

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Bill XVIII

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

A BILL FOR

1 An Act relating to probation after commitment.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter seven hundred eighty-nine A (789A),
2 Code 1975, is amended by adding the following new section:

3 NEW SECTION. PROBATION AFTER COMMITMENT. For a period
4 of ninety days from the date a person convicted of a felony
5 begins to serve a sentence of confinement, the sentencing
6 court may order such person returned to the court. When the
7 person is returned to the court, the court shall hold a hearing
8 to review its previous action and reaffirm its order of
9 commitment or revoke the commitment, suspend the sentence
10 and place the person on probation as provided in section seven
11 hundred eighty-nine A point one (789A.1), subsection two (2),
12 of the Code. Such action is discretionary with the court
13 and is not subject to review.

14 This section shall not be construed to permit the granting
15 of a suspended sentence to a person ineligible for such
16 consideration under section seven hundred eighty-nine A point
17 one (789A.1) of the Code.

18 EXPLANATION

19 This bill allows the sentencing court to review the
20 commitment of an individual to a correctional institution
21 within ninety days of confinement. Upon review the court
22 may reaffirm its order of commitment or grant a suspended
23 sentence.

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