

FILED FEB 10 1971

Reprinted 3/10

Judiciary 2/11/71 Pass per amendment 2/17 SENATE FILE 190

By TAPSCOTT, MOWRY, GAUDINEER,
DeKOSTER, MILLIGAN, and
ROBINSON
(Jesse, Hill, Franklin,
and Knoke)

Passed Senate, Date 3-10-71 Passed House, Date _____
Vote: Ayes 33 Nays 12 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transfer of persons committed to jail.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3 Section 1. Section seven hundred eighty-nine point eight-
4 teen (789.18), Code 1971, is amended by adding the following
5 new paragraph:

6 "When a person has been committed to jail and the jail is
7 not an adequate or sufficient one, as determined by the court
8 or the department of social services, the committing court
9 or magistrate may order such person transferred to a facility
10 approved, by the court, or transfer said person to a jail of
11 some other county or a city that will accept such transferred
12 person. The county or city to which the cause originally
13 belonged shall be liable for all the expenses of transfer and
14 maintenance."

EXPLANATION

15
16 This bill provides that persons in inadequate jails can be
17 transferred, by order of the court or magistrate that originally
18 committed him, to another approved facility or jail of some
19 other city or county. The city or county which was originally
20 responsible for expenses will continue to bear the expenses of
21 his commitment.
22
23
24
25

1 officially to notify the county board of supervisors in writ-
 2 ing to comply fully with the provisions of sections 356.37 to
 3 356.44, inclusive.

4 Sec. 9. This Act, being deemed of immediate importance,
 5 shall take effect and be in force from and after its publi-
 6 cation in the Lee Town News, a newspaper published in Des Moines,
 7 Iowa, and in the Marshalltown Times-Republican, a newspaper
 8 published in Marshalltown, Iowa.

Proof of Publication 4/8
Lee Town News 5/13
Marshalltown Times-Republican 5/8

1 Amend Senate File 190 as passed by the Senate and
 2 reprinted as follows:
 3 1. Page 1, line 9, by striking the words "sub-
 4 sections two (2) and three (3)".
 5 2. Page 1, line 10, by striking the word "shall"
 6 and by inserting in lieu thereof the word "may" and by
 7 inserting after the word "in" the words "lieu of or in".
 8 3. Page 2, line 16, by adding after the period
 9 the following: "The board of supervisors shall
 10 deliver a copy of the contract to each municipal
 11 court judge in the county and to each district court
 12 judge of the district which includes that county."
 13 4. Page 3, line 18, by inserting after the word
 14 "Code." the following: "The provisions of Chapter
 15 745 shall be applicable to any person detained, com-
 16 mitted, or transferred to a facility established and
 17 maintained pursuant to this Act."

Filed - Adopted 4/20
 April 5, 1971

House
 By COMMITTEE ON JUDICIARY
 PELTON, Chairman

1 Amend the Tapscott et. al. amendment to Senate
2 File 190, filed February 25, 1971 as follows:
3 1. Page 1, line 6, by inserting after the word
4 "a", the words "public or".
5 2. Page 2, line 2, after the word "a", the words
6 "public or".
7 3. Page 5, line 23, after the word "paid", the
8 words "by the city or".

Filed - *adopted 3/9*
March 2, 1971

By GAUDINEER

1 Amend the Tapscott, et al., amendment filed February
2 25, 1971, to Senate File 190, page 6, after line 1,
3 by adding the following new section:
4 Sec. 8. This Act, being deemed of immediate
5 importance, shall take effect and be in force from
6 and after its publication in the Lee Town News, a
7 newspaper published in Des Moines, Iowa and in the
8 Marshalltown Times-Republican, a newspaper pub-
9 lished in Marshalltown, Iowa.

Filed and Adopted
March 9, 1971

By TAPSCOTT *Senate*

1 Amend the Tapscott, et al amendment filed February 25, 1971 to
2 Senate File 190, page 6, by adding after line 1 the following
3 new section:
4 Sec. _____. Section three hundred fifty-six point forty-
5 three (356.43), unnumbered paragraph one (1), Code 1971, is
6 amended as follows:
7 The state department of social services shall have
8 general charge and supervision of the provisions of section
9 356.37 to 356.44, inclusive. The state department of social
10 services and its inspectors and agents shall have the power
11 and duty to make periodic inspections of each such jail and
12 all such facilities established pursuant to this Act, and
13 officially to notify the county board of supervisors in writ-
14 ing to comply fully with the provisions of sections 356.37 to
15 356.44 inclusive.

Filed - *adopted 3/10*
March 9, 1971

By MESSERLY and GAUDINEER

SENATE FILE 190

1 Amend Senate File 190 by striking all after the en-
2 acting clause and inserting in lieu thereof the follow-
3 ing:
4 "Section 1. A county board of supervisors may, by
5 majority vote, establish and maintain by lease, purchase,
6 or construction, or contract with a private nonprofit
7 agency or corporation to establish and maintain, facili-
8 ties where persons may be detained or confined pursuant
9 to a court order as provided in section three hundred
10 fifty-six point one (356.1), subsections two (2) and
11 three (3) of the Code. Such facilities shall be in ad-
12 dition to the jail required in section three hundred
13 fifty-six point thirty-seven (356.37) of the Code. The
14 board shall designate the age, sex, or type of offender
15 or person which may be detained or committed to each
16 such facility and establish rules and regulations for
17 their operation. Any person detained or confined to
18 such a facility shall be required to do all cleaning,
19 upkeep, maintenance, minor repairs, and anything else
20 necessary to properly maintain, operate, and preserve
21 such facility. The sheriff shall not have charge or
22 custody of any person detained or confined in such fa-
23 cility or transferred thereto. Such facility need not
24 contain any cells, cell blocks, or bars, if it is not
25 necessary for the protection of the public, as deter-

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1 mined by the board.
2 Sec. 2. If the board of supervisors contract with a
3 private nonprofit agency or corporation for the estab-
4 lishment and maintenance of such a facility, the con-
5 tract shall state the age, sex, or type of offender or
6 person which may be detained or confined therein; the
7 charge per person per day to be paid by the county; that
8 each such facility shall insure the performance of the
9 duties of the keeper as defined in section three hundred
10 fifty-six point five (356.5) of the Code; the activities
11 and service to be provided those detained or confined;
12 the extent of security to be provided in the best inter-
13 ests of the community; the maximum number of persons
14 that can be detained or committed at any one time; the
15 number of employees to be provided by the contracting
16 private nonprofit agency or corporation for the mainte-
17 nance, supervision, control, and security of persons de-
18 tained or confined therein; and any other matters deemed
19 necessary by the supervisors. All such contracts shall
20 be for a period not to exceed two years.

21 Sec. 3. Any municipal or district court judge may
22 sentence and commit a person to a facility established
23 and maintained pursuant to section one (1) or two (2)

24 of this Act instead of the county jail. A district
25 court judge may order the transfer of a person sentenced
page 3

1 and committed to the county jail to such a facility upon
2 his own motion, the motion of the sentenced and commit-
3 ted person, or the motion of the sheriff. The original
4 order of commitment or the order of transfer to the
5 facility shall set forth the terms and conditions of
6 the detention or commitment; that the detained or com-
7 mitted person shall abide by the terms and conditions
8 of this Act and the rules and regulations of the facil-
9 ity to which committed or transferred. The order shall
10 be read to the detained, committed or transferred per-
11 son in open court. The committing court or a district
12 court judge may order any person who has been detained
13 committed, or transferred to such a facility to be
14 transferred to the county jail if, upon hearing, the
15 court determines such person has been refractory, dis-
16 orderly, has willfully destroyed or injured any property
17 in the facility, or has violated any of the terms and
18 conditions of the order of detention, commitment, or
19 transfer or the provisions of this Act or the rules
20 and regulations of the facility wherein he was detained
21 or committed. Any violations of the order of detention,
22 commitment, or transfer shall further be punished as
23 contempt of court pursuant to chapter six hundred sixty
24 five (665) of the Code. The county or city to which the
25 cause originally belonged shall be liable for the expense

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1 of the original detention, commitment, or transfer and
2 the subsequent expenses of maintaining such person in
3 the facility. The county's expense shall be levied and
4 paid out of the court expense fund pursuant to section
5 four hundred forty-four point ten (444.10) of the Code.

6 Sec. 4. A person detained, committed, or transferred
7 to a facility established and maintained pursuant to
8 sections one (1) or two (2) of this Act, may further be
9 released from such facility during necessary and reason-
10 able hours, by court order, for the purposes stated in
11 section three hundred fifty-six point twenty-six
12 (356.26) of the Code. Such release and any wages earned
13 shall be governed by the provisions of sections three
14 hundred fifty-six point twenty-seven (356.27) through
15 three hundred fifty-six point thirty-six (356.36), in-
16 clusive, except that during such time the released per-
17 son shall not be in the legal custody of the sheriff;
18 any wages earned shall be collected, managed, and dis-
19 pensed by the person in charge of the facility and not
20 the sheriff; and any wages earned shall first be applied
21 to the reasonable cost of housing such person in the
22 facility.

23 Sec. 5. Any person sentenced, detained, committed,
24 or transferred to a facility established and maintained
25 pursuant to section one (1) or two (2) of this Act shall

Senate 5
Feb. 26, 1971

Page 5

1 be discharged therefrom upon completion of their original
2 terms of detention or commitment. The person in charge
3 of such facility shall keep a calendar as required in
4 section three hundred fifty-six point six (356.6) of the
5 Code and return a copy of the calendar as required by
6 section three hundred fifty-six point seven (356.7) of
7 the Code.

8 Sec. 6. A judge of the municipal or district court
9 may originally commit a person to the county jail to
10 serve any part of the sentence pronounced and thereafter
11 be transferred to a facility established and maintained
12 pursuant to section one (1) or two (2) of this Act.

13 Sec. 7. A county board of supervisors may further
14 contract with another county or a city maintaining a
15 jail meeting the requirements of sections three hundred
16 fifty-six point thirty-seven (356.37) to three hundred
17 fifty-six point forty-one (356.41), inclusive, of the
18 Code for detention and commitment of persons pursuant
19 to section three hundred fifty-six point one (356.1) of
20 the Code. Any person detained or confined therein shall
21 be in charge of and in the custody of the governmental
22 unit maintaining the jail. The cost of detention and
23 confinement shall be levied and paid from the court
24 expense fund of the county to which the cause originally
25 belonged pursuant to section four hundred forty-four

page 6

1 point ten (444.10) of the Code."

Filed - *C. digital as amended 3/10*
February 25, 1971

By TAPSCOTT
MOWRY
GAUDINEER
DeKOSTER
MILLIGAN
ROBINSON

- 1 Amend Senate File 190 as follows:
- 2 1. Page 1, line 6, by inserting after the word
- 3 "person" the words, "is to be or".
- 4 2. Page 1, line 9, by striking the word "transferred"
- 5 and inserting in lieu thereof the word "committed".
- 6 3. Page 1, line 9, by striking the word "a" and
- 7 inserting in lieu thereof the word "any".
- 8 4. Page 1, line 11, by striking the word "transferred"
- 9 and inserting in lieu thereof the word "committed".

Filed - *withdrawing 3/10*
February 17, 1971

By COMMITTEE ON JUDICIARY

March 10, 1971

*Has Judiciary 3/12
Pass for Committee
amendment 4/5*

SENATE FILE 190

By TAPSCOTT, MOWRY, GAUDINEER,
DeKOSTER, MILLIGAN and ROBINSON
(Jesse, Hill, Franklin and Knoke)
(AS PASSED BY THE SENATE)

Passed Senate, Date.....*4-23-71*..... Passed House, Date*4-20-71*.....
Vote: Ayes*35*..... Nays*7*..... Vote: Ayes*26*..... Nays*14*.....
Approved*5-71*.....

A BILL FOR

1 An Act relating to the transfer of persons committed to jail.
2 *Be It Enacted by the General Assembly of the State of Iowa:*
3 *Section 1. A county board of supervisors may, by*
4 *majority vote, establish and maintain by lease, purchase, or*
5 *construction, or contract with a public or private nonprofit*
6 *agency or corporation to establish and maintain, facilities*
7 *where persons may be detained or confined pursuant to a*
8 *court order as provided in section three hundred fifty-six*
9 *point one (356.1), subsections two (2) and three (3) of the*
10 *Code. Such facilities shall be in addition to the jail re-*
11 *quired in section three hundred fifty-six point thirty-seven*
12 *(356.37) of the Code. The board shall designate the age, sex,*
13 *or type of offender or person which may be detained or committed*
14 *to each such facility and establish rules and regulations for*
15 *their operation. Any person detained or confined to such a*
16 *facility shall be required to do all cleaning, upkeep, main-*
17 *tenance, minor repairs, and anything else necessary to properly*
18 *maintain, operate, and preserve such facility. The sheriff shall*
19 *not have charge or custody of any person detained or confined*
20 *in such facility or transferred thereto. Such facility need*
21 *not contain any cells, cell blocks, or bars, if it is not*
22 *necessary for the protection of the public, as determined by*
23 *the board.*
24 *Sec. 2. If the board of supervisors contract with a public*
25 *or private nonprofit agency or corporation for the establish-*

1 *ment and maintenance of such a facility, the contract shall*
2 *state the age, sex, or type of offender or person which may*
3 *be detained or confined therein; the charge per person per*
4 *day to be paid by the county; that each such facility shall*
5 *insure the performance of the duties of the keeper as*
6 *defined in section three hundred fifty-six point five (S56.5)*
7 *of the Code; the activities and service to be provided those*
8 *detained or confined; the extent of security to be provided*
9 *in the best interests of the community; the maximum number of*
10 *persons that can be detained or committed at any one time;*
11 *the number of employees to be provided by the contracting*
12 *private nonprofit agency or corporation for the maintenance,*
13 *supervision, control, and security of persons detained or*
14 *confined therein; and any other matters deemed necessary by*
15 *the supervisors. All such contracts shall be for a period*
16 *not to exceed two years.*

17 *Sec. 3. Any municipal or district court judge may*
18 *sentence and commit a person to a facility established and*
19 *maintained pursuant to section one (1) or two (2) of this*
20 *Act instead of the county jail. A district court judge may*
21 *order the transfer of a person sentenced and committed to the*
22 *county jail to such a facility upon his own motion, the motion*
23 *of the sentenced and committed person, or the motion of the*
24 *sheriff. The original order of commitment or the order of*
25 *transfer to the facility shall set forth the terms and conditions*

1 of the detention or commitment; that the detained or com-
2 mitted person shall abide by the terms and conditions of this
3 Act and the rules and regulations of the facility to which
4 committed or transferred. The order shall be read to the
5 detained, committed or transferred person in open court.
6 The committing court or a district court judge may order any
7 person who has been detained, committed, or transferred to
8 such a facility to be transferred to the county jail if,
9 upon hearing, the court determines such person has been
10 refractory, disorderly, has willfully destroyed or injured
11 any property in the facility, or has violated any of the
12 terms and conditions of the order of detention, commitment,
13 or transfer or the provisions of this Act or the rules and
14 regulations of the facility wherein he was detained or
15 committed. Any violation of the order of detention, commit-
16 ment, or transfer shall further be punished as contempt of
17 court pursuant to chapter six hundred sixty-five (665) of the
18 Code. The county or city to which the cause originally
19 belonged shall be liable for the expense of the original
20 detention, commitment, or transfer and the subsequent expenses
21 of maintaining such person in the facility. The county's
22 expense shall be levied and paid out of the court expense fund
23 pursuant to section four hundred forty-four point ten (444.10)
24 of the Code.

25 Sec. 4. A person detained, committed, or transferred to

1 a facility established and maintained pursuant to sections
2 one (1) or two (2) of this Act, may further be released from
3 such facility during necessary and reasonable hours, by
4 court order, for the purposes stated in section three hundred
5 fifty-six point twenty-six (356.26) of the Code. Such release
6 and any wages earned shall be governed by the provisions of
7 sections three hundred fifty-six point twenty-seven (356.27)
8 through three hundred fifty-six point thirty-six (356.36),
9 inclusive, except that during such time the released person
10 shall not be in the legal custody of the sheriff; any wages
11 earned shall be collected, managed, and dispensed by the
12 person in charge of the facility and not the sheriff; and
13 any wages earned shall first be applied to the reasonable
14 cost of housing such person in the facility.

15 Sec. 5. Any person sentenced, detained, committed, or
16 transferred to a facility established and maintained pursuant
17 to section one (1) or two (2) of this Act shall be dis-
18 charged therefrom upon completion of their original term
19 of detention or commitment. The person in charge of such
20 facility shall keep a calendar as required in section three
21 hundred fifty-six point six (356.6) of the Code and return
22 a copy of the calendar as required by section three hundred
23 fifty-six point seven (356.7) of the Code.

24 Sec. 6. A judge of the municipal or district court
25 may originally commit a person to the county jail to serve

1 any part of the sentence pronounced and thereafter be trans-
2 ferred to a facility established and maintained pursuant to
3 section one (1) or two (2) of this Act.

4 Sec. 7. A county board of supervisors may further con-
5 tract with another county or a city maintaining a jail meet-
6 ing the requirements of sections three hundred fifty-six
7 point thirty-seven (356.37) to three hundred fifty-six point
8 forty-one (356.41), inclusive, of the Code for detention and
9 commitment of persons pursuant to section three hundred fifty-
10 six point one (356.1) of the Code. Any person detained or
11 confined therein shall be in charge of and in the custody of
12 the governmental unit maintaining the jail. The cost of
13 detention and confinement shall be levied and paid by the
14 city or from the court expense fund of the county to which
15 the cause originally belonged pursuant to section four hundred
16 forty-four point ten (444.10) of the Code.

17 Sec. 8. Section three hundred fifty-six point forty-
18 three (356.43), unnumbered paragraph one (1), Code 1971, is
19 amended as follows:

20 The state department of social services shall have
21 general charge and supervision of the provisions of sections
22 356.37 to 356.44, inclusive. The state department of social
23 service and its inspectors and agents shall have the power
24 and duty to make periodic inspections of each such jail and
25 all such facilities established pursuant to this Act, and

HOUSE AMENDMENT TO SENATE FILE 190

- 1 Amend Senate File 190 as amended and passed by the Senate
 2 and reprinted as follows:
 3 1. Page 1, lines 4 and 5, by striking the words "or
 4 construction,".
 5 2. Page 1, line 9, by striking the words "subsections
 6 two (2) and three (3)".
 7 3. Page 1, line 10, by striking the word "shall" and
 8 by inserting in lieu thereof the word "may" and by
 9 inserting after the word "in" the words "lieu of or in".
 10 4. Page 1, line 12, by striking all after the word "Code."
 11 and all of lines 13 and 14 and the words "their operation."
 12 in line 15 and inserting in lieu thereof the words "the
 13 board shall establish rules and regulations for the operation
 14 of each such facility."
 15 5. Page 2, lines 2 and 3, by striking the words "the
 16 age, sex, or type of offender or person which may be detained
 17 or confined therein;".
 18 6. Page 2, lines 16, by adding after the period the
 19 following: "The board of supervisors shall deliver a copy
 20 of the contract to each municipal court judge in the county
 21 and to each district court judge of the district which
 22 includes that county."
 23 7. Page 3, line 18, by inserting after the word "Code."
 24 the following: "The provisions of chapter seven hundred
 25 forty-five (745) of the Code shall be applicable to any
 Page 2

1 person detained, committed , or transferred to a facility
 2 established and maintained pursuant to this Act."

Received from the House
 April 21, 1971

*Senate concurred
 4/23*

- 1 Amend Senate File 190 as passed by the Senate
 2 and reprinted as follows:
 3 1. Page 1, lines 4 and 5, by striking the words
 4 "or construction,".
 5 2. Page 1, line 12, by striking all after the
 6 word "Code." and all of lines 13 and 14 and the
 7 words "their operation." in line 15 and inserting
 8 in lieu thereof the words "The board shall establish
 9 rules and regulations for the operation of each such
 10 facility."
 11 3. Page 2, lines 2 and 3, by striking the words
 12 "the age, sex, or type of offender or person which
 13 may be detained or confined therein;".
 14 4. Page 3, line 6, by striking the word "may"
 15 and inserting in lieu thereof the word "shall".

admitted 4/20

*Law
 4/20*

Filed - *Amend 1, 2, 3 adopted; 4 lost 4/20* By KREAMER of Polk
 April 13, 1971 District 63

House