

Reprinted 3/28

FEB 29 1980

HOUSE FILE 2495

Place On Calendar

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House File 2284)

Passed House, Date 3/27/80 (p. 1205) Passed Senate, Date _____

Vote: Ayes 84 Nays 8 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to strip searches subsequent to arrest.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2495

1 Section 1. Chapter seven hundred two (702), Code 1979,
2 is amended by adding the following new section:

3 NEW SECTION. STRIP SEARCH. "Strip search" means having
4 a person remove or arrange some or all of his or her clothing
5 so as to permit an inspection of the genitalia, buttocks,
6 anus, female breasts or undergarments of that person.

7 Sec. 2. Chapter eight hundred four (804), Code 1979, is
8 amended by adding the following new section:

9 NEW SECTION. STRIP SEARCHES. A person arrested for a
10 scheduled violation or a simple misdemeanor shall not be
11 subjected to a strip search unless there is probable cause
12 to believe the person is concealing a weapon or contraband.
13 The objective and intensity of the search must be reasonably
14 related to the offense for which the arrest was made. A strip
15 search pursuant to this section shall not be conducted except
16 under all of the following conditions:

17 1. Written authorization of the supervisor on duty is
18 obtained.

19 2. A search warrant is obtained for the visual search
20 or probing of any body cavity other than the mouth.

21 3. A visual search or probing of any body cavity other
22 than the mouth shall be performed under sanitary conditions.
23 A visual search shall be made by or under the direction of
24 a physician licensed in Iowa to practice medicine and surgery,
25 osteopathic medicine and surgery or osteopathy. A physical
26 probe of a body cavity other than the mouth shall be performed
27 only by a licensed physician.

28 4. The search is conducted in a place where it cannot
29 be observed by persons not conducting the search.

30 5. The search is conducted by a person of the same sex
31 as the arrested person, unless conducted by a physician.

32 Subsequent to a strip search a written report shall be
33 prepared which includes the written authorization required
34 by subsection one (1) of this section, the name of the person
35 subjected to the search, the names of the persons conducting

1 the search, the time, date and place of the search and, if
2 required by subsection two (2) of this section, a copy of
3 the search warrant authorizing the search. A copy of the
4 report shall be provided to the person searched.

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EXPLANATION

6 This bill regulates the conduct of strip searches of ar-
7 rested persons. It prohibits a strip search of someone ar-
8 rested for a scheduled violation or a simple misdemeanor un-
9 less there is reasonable cause to believe the person is con-
10 cealing a weapon or contraband. All strip searches would
11 require the written authorization of the supervisor on duty.
12 A search warrant is required for the visual search or probing
13 of any body cavity other than the mouth and must be conducted
14 under sanitary conditions. A visual search shall be made
15 by or under the supervision of a licensed physician. A
16 physical probe of a body cavity other than the mouth shall
17 be performed only by a licensed physician. A strip search
18 must be conducted where it cannot be observed by persons
19 not conducting the search and must be conducted by someone
20 of the same sex as the arrested person unless conducted by
21 a physician. A written report must be made concerning any
22 strip search, a copy of which must be provided to the person
23 searched. The bill takes effect July first following its
24 enactment.

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H-5406

1 Amend House File 2495 as follows:

2 1. Page 1, by inserting before line 1 the following
3 new sections:

4 "Sec. _____. Chapter two hundred eighteen (218),
5 Code 1979, is amended by adding the following new
6 section:

7 NEW SECTION. SEARCHES OF INSTITUTION'S VISITORS.
8 Visitors of a penal or correctional institution under
9 jurisdiction of the department shall not be stripped
10 and searched except if there is probable cause to
11 believe a visitor is bringing in or attempting to
12 bring in contraband. If there is probable cause to
13 believe a visitor is bringing in or attempting to
14 bring in contraband, the visitor may submit to be
15 stripped and searched, and if no contraband is found,
16 the visitor may be allowed visiting privileges. If
17 the visitor refuses to be stripped and searched, the
18 visitor may be denied visiting privileges. For the
19 purposes of this section, community based correctional
20 facilities under chapter nine hundred five (905) of
21 the Code are penal or correctional institutions under
22 jurisdiction of the department.

23 Sec. _____. Chapter three hundred fifty-six (356),
24 Code 1979, is amended by adding the following new
25 section:

26 NEW SECTION. SEARCHES OF JAIL VISITORS. Visitors
27 of a jail shall not be stripped and searched except
28 if there is probable cause to believe the visitor
29 is bringing in or attempting to bring in contraband.
30 If there is probable cause to believe a visitor is
31 bringing in or attempting to bring in contraband,
32 the visitor may submit to be stripped and searched,
33 and if no contraband is found, the visitor may be
34 allowed visiting privileges. If the visitor refuses
35 to be stripped and searched the visitor may be denied
36 visiting privileges.

37 Sec. _____. Chapter three hundred fifty-six A (356A),
38 Code 1979, is amended by adding the following new
39 section:

40 NEW SECTION. SEARCHES OF VISITORS. Visitors of
41 a facility established and maintained pursuant to
42 section three hundred fifty-six A point one (356A.1)
43 or three hundred fifty-six A point two (356A.2) of
44 the Code shall not be stripped and searched, except
45 if there is probable cause to believe the visitor
46 is bringing in or attempting to bring in contraband.
47 If there is probable cause to believe a visitor is
48 bringing in or attempting to bring in contraband,
49 the visitor may submit to be stripped and searched,
50 and if no contraband is found, the visitor may be

MARCH 10, 1980

PAGE EIGHT

H-5406

Page Two

- 1 allowed visiting privileges. If the visitor then
- 2 refuses to be stripped and searched, the visitor may
- 3 be denied visiting privileges."
- 4 2. By amending section numbers as made necessary
- 5 by this amendment.

H-5406 FILED

BY BRANDT of Black Hawk

MARCH 7, 1980

Subd not german 2/27 (p. 1200)

HOUSE FILE 2495

H-5347

- 1 Amend House File 2495 as follows:
- 2 1. Page 1, line 29, by adding after the word
- 3 "search" the following: "except as provided in paragraph
- 4 six (6)".
- 5 2. Page 1, by adding after line 31, the following:
- 6 "6. No search may be conducted without the presence
- 7 of a person of the same sex as the person being searched,
- 8 in addition to the person performing the search."

H-5347 FILED

BY COREY of Louisa

MARCH 3, 1980

Adopted 2/27 (p. 1204)

HOUSE FILE 2495

H-5699

1 Amend House amendment H-5688 to House File 2495

2 as follows:

3 1. Page 1, by striking line 10 and inserting in
4 lieu thereof the following:

5 "All newly constructed detention facilities designed
6 for the incarceration of persons".

7 2. Page 1, lines 11 and 12, by striking the words "for
8 scheduled violations or simple misdemeanors".

H-5699 FILED

BY JOHNSON of Linn

MARCH 26, 1980

Adopted 3/27 (p. 120 ")

HOUSE FILE 2495

H-5712

1 Amend amendment H-5347 to House File 2495 as follows:

2 1. Page 1, by striking line 4 and inserting in
3 lieu thereof the following: "five (5)".

4 2. Page 1, by striking lines 5 through 8 and inserting
5 in lieu thereof the following:

6 "2. Page 1, line 30, by inserting after the word
7 "person" the words ", or in the presence of a person,".

H-5712 FILED

BY CONLON of Muscatine

MARCH 26, 1980

W/S 3/27 (p. 1203)

H-5677

- 1 Amend House File 2495 as follows:
 2 1. Page 1, lines 21 and 22, by striking the
 3 words "other than the mouth".

H-5677 FILED
 MARCH 25, 1980
Adopted 3/27 (p. 1203)

BY SPEAR of Lee

HOUSE FILE 2495

H-5682

- 1 Amend House File 2495 as follows:
 2 1. Page 1, line 11, by inserting after the word
 3 "unless" the words "the person is to be confined or".
 4 2. Page 1, line 20, by inserting after the word
 5 "mouth." the words "However, a search warrant is not
 6 required if the person is to be confined."
 7 3. Page 1, by striking lines 23 through 25 and
 8 inserting in lieu thereof the words "A physical".

H-5682 FILED
 MARCH 25, 1980
A. Lee 3/27 (p. 1201)
B. Lee (p. 1202)
C. Wild (p. 1203)
D. Lee (p. 1205)

BY SPEAR of Lee

HOUSE FILE 2495

H-5688

- 1 Amend House File 2495 as follows:
 2 1. Page 1, by striking lines 13 and 14 and
 3 inserting in lieu thereof the following: "A strip".
 4 2. Page 1, lines 19 and 20, by striking the
 5 words "visual search or".
 6 3. Page 1, line 27, by inserting after the
 7 word "physician" the words "or his or her designee".
 8 4. Page 2, by inserting after line 4 the
 9 following paragraph:
 10 "All detention facilities incarcerating persons
 11 arrested for scheduled violations or simple misdemea-
 12 ors shall be equipped with a separate area sufficient
 13 to accomodate persons not subject to strip search
 14 pursuant to this section. All persons not subject to
 15 strip search pursuant to this section shall be detain-
 16 ed in that area."

H-5688 FILED
 MARCH 25, 1980
B. Lee 3/27 (p. 1202)
C. Wild (p. 1203)

BY WELSH of Dubuque

HOUSE FILE 2495

H-5689

- 1 Amend amendment H-5406 to House File 2495 as
 2 follows:
 3 1. Page 1, by striking lines 4 through 22.

H-5689 FILED
 MARCH 25, 1980
Placed out of order 3/27 (p. 1200)

BY SPEAR of Lee

See Judiciary 3/28
Amended from 56440
To Pass 4/3 (p. 1290)

HOUSE FILE 2495

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(AS Amended and Passed by the House)

Passed House, Date 4/16/80 (p. 1244) Passed Senate, Date 4/8/80 (p. 1344)

Vote: Ayes 94 Nays 5 Vote: Ayes 49 Nays 0

Approved May 24, 1980

A BILL FOR

1 An Act relating to strip searches subsequent to arrest.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

Stricken Language *

1 Section 1. Chapter seven hundred two (702), Code 1979,
2 is amended by adding the following new section:

3 NEW SECTION. STRIP SEARCH. "Strip search" means having
4 a person remove or arrange some or all of his or her clothing
5 so as to permit an inspection of the genitalia, buttocks,
6 anus, female breasts or undergarments of that person.

7 Sec. 2. Chapter eight hundred four (804), Code 1979, is
8 amended by adding the following new section:

9 NEW SECTION. STRIP SEARCHES. A person arrested for a
10 scheduled violation or a simple misdemeanor shall not be
11 subjected to a strip search unless there is probable cause
12 to believe the person is concealing a weapon or contraband.
13 The objective and intensity of the search must be reasonably
14 related to the offense for which the arrest was made. A strip
15 search pursuant to this section shall not be conducted except
16 under all of the following conditions:

17 1. Written authorization of the supervisor on duty is
18 obtained.

5647 19 2. A search warrant is obtained for the visual search
20 or probing of any body cavity other than the mouth.

21 3. A visual search or probing of any body cavity shall
22 be performed under sanitary conditions. A visual search shall
23 be made by or under the direction of a physician licensed
24 in Iowa to practice medicine and surgery, osteopathic medicine
25 and surgery or osteopathy. A physical probe of a body cavity
26 other than the mouth shall be performed only by a licensed
27 physician.

5648 28 4. The search is conducted in a place where it cannot
29 be observed by persons not conducting the search except as
30 provided in paragraph six (6).

31 5. The search is conducted by a person of the same sex
32 as the arrested person, unless conducted by a physician.

5649 33 6. No search may be conducted without the presence of
34 a person of the same sex as the person being searched, in
35 addition to the person performing the search.

1 Subsequent to a strip search a written report shall be
2 prepared which includes the written authorization required
3 by subsection one (1) of this section, the name of the person
4 subjected to the search, the names of the persons conducting
5 the search, the time, date and place of the search and, if
6 required by subsection two (2) of this section, a copy of
7 the search warrant authorizing the search. A copy of the
8 report shall be provided to the person searched.

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HOUSE FILE 2495

S-5644

- 1 Amend House File 2495 as amended, passed and
 2 reprinted by the House, as follows:
 3 1. Page 1, by striking lines 13 and 14 and
 4 inserting in lieu thereof the words "A strip".
 5 2. Page 1, lines 19 and 20, by striking the words
 6 "visual search or".
 7 3. Page 1, line 20, by inserting after the word
 8 "mouth" the words ", ears or nose".
 9 4. Page 1, line 22, by striking the words "visual
 10 search" and inserting in lieu thereof the words
 11 "physical probe of a body cavity".
 12 5. Page 1, line 26, by inserting after the word
 13 "mouth" the words ", ears or nose".
 14 6. Page 1, line 27, by inserting after the word
 15 "physician" the words "unless voluntarily waived in
 16 writing by the arrested person".
 17 7. Page 1, lines 29 and 30, by striking the words
 18 and figure "except as provided in paragraph six (6)".
 19 8. Page 1, by striking lines 33 through 35.

S-5644 FILED
 APRIL 3, 1980

BY COMMITTEE ON JUDICIARY
 LUCAS J. DeKOSTER, CHAIRPERSON

a. Adopted 4/9/80 (p. 1345)
B. C. Adopted (p. 1342)

HOUSE FILE 2495

S-5689

- 1 Amend amendment S-5644 to House File 2495 as
 2 follows:
 3 1. Page 1, by inserting after line 2 the following:
 4 "____. Page 1, line 6, by inserting after the word
 5 "person" the words "or a physical probe of any body
 6 cavity"."
 7 2. Page 1, by striking lines 9 through 11 and
 8 inserting in lieu thereof the following:
 9 "____. Page 1, by striking lines 22 through 25
 10 and inserting in lieu thereof the words "be performed
 11 under sanitary conditions. A physical probe of a
 12 body cavity"."
 13 3. By renumbering and correcting internal
 14 references as made necessary by this amendment.

S-5689 FILED
 APRIL 9, 1980
 ADOPTED (p. 1342)

BY BOB RUSH

SENATE AMENDMENT TO
HOUSE FILE 2495

H-6001

- 1 Amend House File 2495 as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, line 6, by inserting after the word
- 4 "person" the words "or a physical probe of any body
- 5 cavity".
- 6 2. Page 1, by striking lines 13 and 14 and
- 7 inserting in lieu thereof the words "A strip".
- 8 3. Page 1, lines 19 and 20, by striking the words
- 9 "visual search or".
- 10 4. Page 1, line 20, by inserting after the word
- 11 "mouth" the words ", ears or nose".
- 12 5. Page 1, by striking lines 22 through 25 and
- 13 inserting in lieu thereof the words "be performed
- 14 under sanitary conditions. A physical probe of a
- 15 body cavity".
- 16 6. Page 1, line 26, by inserting after the word
- 17 "mouth" the words ", ears or nose".
- 18 7. Page 1, line 27, by inserting after the word
- 19 "physician" the words "unless voluntarily waived in
- 20 writing by the arrested person".
- 21 8. Page 1, lines 29 and 30, by striking the words
- 22 and figure "except as provided in paragraph six (6)".
- 23 9. Page 1, by striking lines 33 through 35.

H-6001 FILED APRIL 11, 1980

RECEIVED FROM THE SENATE

House concurred 4/16 (H 1642)

HOUSE FILE 2495

H-6102

- 1 Amend the Senate amendment, H-6001, to House File
- 2 2495, as amended, passed and reprinted by the House,
- 3 as follows:
- 4 1. Page 1, by striking lines 21, 22, and 23.

H-6102 FILED APRIL 16, 1980

BY SPEAR of Lee

LOST (p 1644)

HOUSE FILE 2495

AN ACT

RELATING TO STRIP SEARCHES SUBSEQUENT TO ARREST.

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

Section 1. Chapter seven hundred two (702), Code 1979, is amended by adding the following new section:

NEW SECTION. STRIP SEARCH. "Strip search" means having a person remove or arrange some or all of his or her clothing so as to permit an inspection of the genitalia, buttocks, anus, female breasts or undergarments of that person or a physical probe of any body cavity.

Sec. 2. Chapter eight hundred four (804), Code 1979, is amended by adding the following new section:

NEW SECTION. STRIP SEARCHES. A person arrested for a scheduled violation or a simple misdemeanor shall not be subjected to a strip search unless there is probable cause to believe the person is concealing a weapon or contraband. A strip search pursuant to this section shall not be conducted except under all of the following conditions:

1. Written authorization of the supervisor on duty is obtained.
2. A search warrant is obtained for the probing of any body cavity other than the mouth, ears or nose.
3. A visual search or probing of any body cavity shall be performed under sanitary conditions. A physical probe of a body cavity other than the mouth, ears or nose shall be performed only by a licensed physician unless voluntarily waived in writing by the arrested person.
4. The search is conducted in a place where it cannot be observed by persons not conducting the search.
5. The search is conducted by a person of the same sex as the arrested person, unless conducted by a physician.

Subsequent to a strip search a written report shall be prepared which includes the written authorization required by subsection one (1) of this section, the name of the person subjected to the search, the names of the persons conducting the search, the time, date and place of the search and, if required by subsection two (2) of this section, a copy of the search warrant authorizing the search. A copy of the report shall be provided to the person searched.

WILLIAM H. HARBOR
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2495, Sixty-eighth General Assembly.

BRUCE GRAHAM
Assistant Chief Clerk of the House

Approved *May 24*, 1980

ROBERT D. RAY
Governor

H.F. 2495