

Judiciary and Law Enforcement: Halverson of Clayton, Chair; Conlon, Rapp, Smalley and Welsh.

SENATE FILE 2163

BY COMMITTEE ON JUDICIARY

(FORMERLY SSB 2127)

*approved 2/11 (p. 276)*

*Pass 3/16 (p. 848)*

FILED FEB 11 1982

Passed Senate, Date 2-26-82 (p. 522) Passed House, Date 3-27-82 (p. 1074)

Vote: Ayes 42 Nays 0 Vote: Ayes 91 Nays 0

Approved April 6, 1982 (p. 1066)

### A BILL FOR

1 An Act relating to the performance of unpaid community service  
2 by defendants convicted of crimes.

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

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1 Section 1. Section 901.3, Code 1981, is amended to read  
2 as follows:

3 901.3 PRESENTENCE INVESTIGATION REPORT. ~~Whenever~~ If a  
4 presentence investigation is ordered by the court, the  
5 investigator shall promptly inquire into all of the following:

6 1. The defendant's characteristics, family and financial  
7 circumstances, needs, and potentialities, including the  
8 presence of any previously diagnosed mental disorder ~~and the~~.

9 2. The defendant's criminal record and social history ~~and~~  
10 ~~the~~.

11 3. The circumstances of the offense ~~and the~~.

12 4. The time the defendant has been in detention ~~and the~~.

13 5. The harm to the victim, the victim's immediate family,  
14 and the community.

15 6. The defendant's potential as a candidate for the  
16 community service sentence program established pursuant to  
17 section 4 of this Act.

18 All local and state mental and correctional institutions,  
19 courts, and police agencies shall furnish to the investigator  
20 on request the defendant's criminal record and other relevant  
21 information. With the approval of the court, a physical  
22 examination or psychiatric evaluation of the defendant may  
23 be ordered, or the defendant may be committed to an inpatient  
24 or outpatient psychiatric facility for an evaluation of his  
25 or her personality and mental health. The results of any  
26 such examination or evaluation shall be included in the report  
27 of the investigator.

28 Sec. 2. Section 905.7, Code 1981, is amended by adding  
29 the following new subsection:

30 NEW SUBSECTION. Provide a program to assist the court  
31 in placing defendants who as a condition of probation are  
32 sentenced to perform unpaid community service.

33 Sec. 3. Section 907.6, Code 1981, is amended to read as  
34 follows:

35 907.6 CONDITIONS OF PROBATION. The court, in ordering

1 probation, may impose any reasonable rules and conditions  
2 which will promote rehabilitation of the defendant and  
3 protection of the community, including but not limited to  
4 adherence to regulations generally applicable to persons  
5 released on parole and including requiring unpaid community  
6 service as allowed pursuant to section 4 of this Act.

7 Sec. 4. Chapter 907, Code 1981, is amended by adding the  
8 following new section:

9 NEW SECTION. COMMUNITY SERVICE SENTENCING.

10 1. The court may establish as a condition of probation  
11 that the defendant perform unpaid community service for a  
12 time not to exceed the maximum period of confinement for the  
13 offense of which the defendant is convicted. If this condition  
14 is established, the defendant in cooperation with the probation  
15 officer assigned to the defendant and in cooperation with  
16 the judicial district department of correctional services,  
17 shall promptly prepare a plan to implement the community  
18 service condition. The plan shall include but shall not be  
19 limited to the suggested placement of the defendant and the  
20 suggested number of hours of services to be required.

21 2. The defendant's plan of community service, the comments  
22 of the defendant's probation officer, and the comments of  
23 the representative of the judicial district department of  
24 correctional services responsible for the unpaid community  
25 service program, shall be submitted promptly to the court.  
26 The court shall promptly enter an order approving the plan  
27 or modifying it. Compliance with the plan of community service  
28 as approved or modified by the court shall be a condition  
29 of the defendant's probation. The court thereafter may modify  
30 the plan at any time upon the defendant's request, upon the  
31 request of the judicial district department of correctional  
32 services, or upon the court's own motion.

33 3. At any time during the probation period the defendant  
34 may request and the court shall grant a hearing on any matter  
35 related to the plan of community service.

1 4. Failure of the defendant to comply with subsection  
2 1 or to comply with the plan of community service as approved  
3 or modified by the court shall constitute a violation of the  
4 conditions of probation. Without limitation, the court may  
5 modify the plan of community service or modify the required  
6 hours of service, but not beyond the maximum hours of service  
7 specified in subsection 1 of this section.

8 EXPLANATION

9 This Act provides that the court may establish as a  
10 condition of probation that a defendant perform unpaid  
11 community service for a time not to exceed the maximum period  
12 of confinement for the offense of which the defendant is  
13 convicted.

14 Under the bill, the state department of social services  
15 is required to adopt rules to provide guidelines to judicial  
16 district departments of correctional services in establishing  
17 programs to assist the court in placing defendants in this  
18 community service work.

19 Section 4 of the bill details how the "community service  
20 sentence" is implemented.

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1. The defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder--the.

2. The defendant's criminal record and social history--the.

3. The circumstances of the offense--the.

4. The time the defendant has been in detention--and--the.

5. The harm to the victim, the victim's immediate family, and the community.

6. The defendant's potential as a candidate for the community service sentence program established pursuant to section 4 of this Act.

All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of his or her personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

Sec. 2. Section 905.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Provide a program to assist the court in placing defendants who as a condition of probation are sentenced to perform unpaid community service.

Sec. 3. Section 907.6, Code 1981, is amended to read as follows:

907.6 CONDITIONS OF PROBATION. The court, in ordering probation, may impose any reasonable rules and conditions which will promote rehabilitation of the defendant and protection of the community, including but not limited to adherence to regulations generally applicable to persons

SENATE FILE 2163

AN ACT

RELATING TO THE PERFORMANCE OF UNPAID COMMUNITY SERVICE BY DEFENDANTS CONVICTED OF CRIMES.

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

Section 1. Section 901.3, Code 1981, is amended to read as follows:

901.3 PRESENTENCE INVESTIGATION REPORT. Whenever if a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following:

released on parole and including requiring unpaid community service as allowed pursuant to section 4 of this Act.

Sec. 4. Chapter 907, Code 1981, is amended by adding the following new section:

NEW SECTION. COMMUNITY SERVICE SENTENCING.

1. The court may establish as a condition of probation that the defendant perform unpaid community service for a time not to exceed the maximum period of confinement for the offense of which the defendant is convicted. If this condition is established, the defendant in cooperation with the probation officer assigned to the defendant and in cooperation with the judicial district department of correctional services, shall promptly prepare a plan to implement the community service condition. The plan shall include but shall not be limited to the suggested placement of the defendant and the suggested number of hours of services to be required.

2. The defendant's plan of community service, the comments of the defendant's probation officer, and the comments of the representative of the judicial district department of correctional services responsible for the unpaid community service program, shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it. Compliance with the plan of community service as approved or modified by the court shall be a condition of the defendant's probation. The court thereafter may modify the plan at any time upon the defendant's request, upon the request of the judicial district department of correctional services, or upon the court's own motion.

3. At any time during the probation period the defendant may request and the court shall grant a hearing on any matter related to the plan of community service.

4. Failure of the defendant to comply with subsection 1 or to comply with the plan of community service as approved or modified by the court shall constitute a violation of the

conditions of probation. Without limitation, the court may modify the plan of community service or modify the required hours of service, but not beyond the maximum hours of service specified in subsection 1 of this section.

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TERRY E. BRANSTAD  
President of the Senate

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DELWYN STROMER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2163, Sixty-ninth General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved April 6, 1982

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ROBERT D. RAY  
Governor