

Judiciary and Law Enforcement: Woods, Chair; Halvorson of Clayton and Renaud.

**FEB 28 1985**

*Amend (3426) + Str. Pass 2/25*

Judiciary & Law Enforcement

HOUSE FILE 438

BY CONNORS

Passed House, Date 4-1-85 (J 1222) Passed Senate, Date 5-3-85 (P. 1938)

Vote: Ayes 99 Nays 0 Vote: Ayes 37 Nays 8

Approved May 24, 1985

### A BILL FOR

- 1 An Act relating to evidence of intent in cases alleging theft
- 2 of library equipment.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 438

H-3426

- 1 Amend House File 438 as follows:
- 2 1. Page 2, line 7, by striking the word "six" and
- 3 inserting the words "six two".

BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

H-3426 FILED MARCH 25, 1985

*Adopted 4/1/85 (J 1222)*

HOUSE FILE 438

H-3553

- 1 Amend House File 438 as follows:
- 2 1. Page 1, by striking lines 21 and 22 and
- 3 inserting the following: "agencies listed in
- 4 subsection 1."

H-3553 FILED MARCH 29, 1985 BY JAY of Appanoose

*Adopted 4/1 (J 1223)*

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1 Section 1. Section 702.22, Code 1985, is amended to read  
2 as follows:

3 702.22 LIBRARY MATERIALS AND EQUIPMENT.

4 1. "Library materials" include books, plates, pictures,  
5 photographs, engravings, paintings, drawings, maps,  
6 newspapers, magazines, pamphlets, broadsides, manuscripts,  
7 documents, letters, public records, microforms, sound  
8 recordings, audiovisual materials in any format, magnetic or  
9 other tapes, electronic data processing records, artifacts,  
10 and written or printed materials regardless of physical form  
11 or characteristics, belonging to, on loan to, or otherwise in  
12 the custody of any of the following:

13 1 a. A public library.

14 2 b. A library of an educational, historical, or  
15 eleemosynary institution, organization, or society.

16 3 c. A museum.

17 4 d. A repository of public records.

18 2. "Library equipment" includes audio, visual, or audio-  
19 visual machines, machinery or equipment belonging to, on loan  
20 to or otherwise in the custody of one of the institutions or  
21 agencies listed in subsection 1, used or for use in showing,  
22 displaying, playing or demonstrating library materials.

23 Sec. 2. Section 714.5, Code 1985, is amended to read as  
24 follows:

25 714.5 LIBRARY MATERIALS AND EQUIPMENT -- UNPURCHASED  
26 MERCHANDISE -- EVIDENCE OF INTENTION.

27 The fact that a person has concealed library materials or  
28 equipment as defined in section 702.22 or unpurchased property  
29 of a store or other mercantile establishment, either on the  
30 premises or outside the premises, is material evidence of  
31 intent to deprive the owner, and the finding of library  
32 materials or equipment or unpurchased property concealed upon  
33 the person or among the belongings of the person, is material  
34 evidence of intent to deprive and, if the person conceals or  
35 causes to be concealed library materials or equipment or

1 unpurchased property, upon the person or among the belongings  
2 of another, the finding of the same concealed materials,  
3 equipment or property is also material evidence of intent to  
4 deprive on the part of the person concealing the library  
5 materials, equipment or goods.

6 The fact that a person fails to return library materials  
7 for six months or more after the date the person agreed to  
8 return the library materials, or fails to return library  
9 equipment for one week or more after the date the person  
10 agreed to return the library equipment, is evidence of intent  
11 to deprive the owner, provided a reasonable attempt has been  
12 made to reclaim the materials or equipment. Notices stating  
13 the provisions of this section and of section 808.12 with  
14 regard to library materials or equipment shall be posted in  
15 clear public view in all public libraries, in all libraries of  
16 educational, historical or charitable institutions,  
17 organizations or societies, in all museums and in all  
18 repositories of public records.

19 In the case of lost library materials or equipment,  
20 arrangements may be made to make a monetary settlement.

21 EXPLANATION

22 This bill relates to theft of library equipment. It  
23 provides that failure to return borrowed library equipment for  
24 one week or more after the agreed return date is evidence of  
25 intent to deprive the owner of the equipment, provided a  
26 reasonable attempt has been made to reclaim it. The bill also  
27 includes library equipment along with library materials in  
28 other provisions relating to evidence of intent.

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HOUSE FILE 438

BY CONNORS

(As Amended and Passed by the House April 1, 1985)

Passed House, Date 5-4-85 (p. 2336) Passed Senate, Date 5-3-85 (p. 1938)

Vote: Ayes 92 Nays 2 Vote: Ayes 37 Nays 8

Approved May 24, 1985

### A BILL FOR

1 An Act relating to evidence of intent in cases alleging theft  
2 of library equipment.

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

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House Amendments \_\_\_\_\_

1 Section 1. Section 702.22, Code 1985, is amended to read  
2 as follows:

3 702.22 LIBRARY MATERIALS AND EQUIPMENT.

4 1. "Library materials" include books, plates, pictures,  
5 photographs, engravings, paintings, drawings, maps,  
6 newspapers, magazines, pamphlets, broadsides, manuscripts,  
7 documents, letters, public records, microforms, sound  
8 recordings, audiovisual materials in any format, magnetic or  
9 other tapes, electronic data processing records, artifacts,  
10 and written or printed materials regardless of physical form  
11 or characteristics, belonging to, on loan to, or otherwise in  
12 the custody of any of the following:

13 1 a. A public library.

14 2 b. A library of an educational, historical, or  
15 eleemosynary institution, organization, or society.

16 3 c. A museum.

17 4 d. A repository of public records.

18 2. "Library equipment" includes audio, visual, or audio-  
19 visual machines, machinery or equipment belonging to, on loan  
20 to or otherwise in the custody of one of the institutions or  
21 agencies listed in subsection 1.

22 Sec. 2. Section 714.5, Code 1985, is amended to read as  
23 follows:

24 714.5 LIBRARY MATERIALS AND EQUIPMENT -- UNPURCHASED  
25 MERCHANDISE -- EVIDENCE OF INTENTION.

26 The fact that a person has concealed library materials or  
27 equipment as defined in section 702.22 or unpurchased property  
28 of a store or other mercantile establishment, either on the  
29 premises or outside the premises, is material evidence of  
30 intent to deprive the owner, and the finding of library  
31 materials or equipment or unpurchased property concealed upon  
32 the person or among the belongings of the person, is material  
33 evidence of intent to deprive and, if the person conceals or  
34 causes to be concealed library materials or equipment or  
35 unpurchased property, upon the person or among the belongings

1 of another, the finding of the same concealed materials,  
2 equipment or property is also material evidence of intent to  
3 deprive on the part of the person concealing the library  
4 materials, equipment or goods.

5 The fact that a person fails to return library materials  
6 for six two months or more after the date the person agreed to  
7 return the library materials, or fails to return library  
8 equipment for one week or more after the date the person  
9 agreed to return the library equipment, is evidence of intent  
10 to deprive the owner, provided a reasonable attempt has been  
11 made to reclaim the materials or equipment. Notices stating  
12 the provisions of this section and of section 808.12 with  
13 regard to library materials or equipment shall be posted in  
14 clear public view in all public libraries, in all libraries of  
15 educational, historical or charitable institutions,  
16 organizations or societies, in all museums and in all  
17 repositories of public records.

18 In the case of lost library materials or equipment,  
19 arrangements may be made to make a monetary settlement.

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SENATE 2  
MAY 2, 1985

S-4181

HOUSE FILE 438

1 Amend House File 438 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 2, line 17, by inserting after the word  
4 "records." the following: "This paragraph does not  
5 apply to professors."

S-4181 Filed May 1, 1985

By COLTON

*W/D 5/3/85 (p 1738)*

S-4180

HOUSE FILE 438

1 Amend House File 438 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 2, line 17, by inserting after the word  
4 "records." the following: "This paragraph does not  
5 apply to authors."

S-4180 Filed May 1, 1985

By COLTON

*W/D 5/3*

S-4179

HOUSE FILE 438

1 Amend House File 438 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 2, line 17, by inserting after the word  
4 "records." the following: "This paragraph does not  
5 apply to members of the staff of the legislative  
6 service bureau."

S-4179 Filed May 1, 1985

By COLTON

*W/D 5/3*

S-4178

HOUSE FILE 438

1 Amend House File 438 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 2, line 17, by inserting after the word  
4 "records." the following: "This paragraph does not  
5 apply to state legislators."

S-4178 Filed May 1, 1985

By COLTON

*W/D 5/3*

S-4177

HOUSE FILE 438

1 Amend House File 438 as amended, passed and  
2 reprinted by the House as follows:  
3 1. Page 2, line 17, by inserting after the word  
4 "records." the following: "This paragraph does not  
5 apply to persons who do not speak or read English."

S-4177 Filed May 1, 1985

By COLTON

*W/D 5/3*

S-3717

HOUSE FILE 438

- 1 Amend House File 438 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 8, by striking the words "one
- 4 week" and inserting the words "two months".

S-3717 Filed April 12, 1985

By COM. ON JUDICIARY

*Class o/c 4/30 (p. 1812)*

S-3985

HOUSE FILE 438

- 1 Amend House File 438, as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 8, by striking the words "one
- 4 week" and inserting the following: "two weeks".
- 5 2. Page 2, line 9, by inserting after the word
- 6 "is" the following: "presumptive".

S-3985 Filed April 24, 1985

By SMALL & DIELEMAN

*Adopted 4/30/85 (p. 1812)*

*Motion to Reconsider (p. 1813) prevailed 5/3*  
*Reconsidered, amended (4/98) and adopted 5/3 (p. 1938)*

S-4164

HOUSE FILE 438

- 1 Amend House File 438 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 4, by striking the word "books,"
- 4 and inserting the word "books".

S-4164 Filed May 1, 1985

By CARR

*4/27 5/3 (p. 1938)*

S-4175

HOUSE FILE 438

- 1 Amend House File 438 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 17, by inserting after the word
- 4 "records." the following: "This paragraph does not
- 5 apply to persons suffering from amnesia."

S-4175 Filed May 1, 1985

By COLTON

*4/27 5/3*

S-4176

HOUSE FILE 438

- 1 Amend House File 438 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 17, by inserting after the word
- 4 "records." the following: "This paragraph does not
- 5 apply to illiterate persons."

S-4176 Filed May 1, 1985

By COLTON

*4/27 5/3*

1 Amend amendment S-3985 to House File 438 as  
2 amended, passed, and reprinted by the House as  
3 follows:

4 1. Page 1, by striking lines 3 and 4 and  
5 inserting the following:

6 "\_\_\_\_\_. Page 2, line 8, by striking the word "week"  
7 and inserting the following: "month."

8 2. Page 1, by striking lines 5 and 6 and  
9 inserting the following:

10 "\_\_\_\_\_. Page 2, line 10, by inserting after the  
11 word "attempt" the following: ", including the  
12 mailing by restricted certified mail of notice that  
13 such material or equipment is overdue and criminal  
14 actions will be taken,".

15 3. Page 1, by inserting after line 6 the  
16 following:

17 "\_\_\_\_\_. Page 2, by inserting after line 17 the  
18 following:

19 "After the expiration of three days following the  
20 due date, the owner of borrowed library equipment may  
21 request the assistance of a dispute resolution center,  
22 mediation center or appropriate law enforcement agency  
23 in recovering the equipment from the borrower.

24 The owner of library equipment may require deposits  
25 by borrowers and in the case of late returns the owner  
26 may impose graduated penalties of up to twenty-five  
27 percent of the value of the equipment, based upon the  
28 lateness of the return."

29 \_\_\_\_\_ Title page, by striking lines 1 and 2 and  
30 inserting the following:

31 "An Act relating to the borrowing of library  
32 materials and equipment and evidence of intent in  
33 cases alleging theft of such materials and equipment,  
34 and providing penalties.""

S-4198 Filed May 2, 1985  
*Adopted 5/13/85 (p. 1937)*

By MANN

1 Amend House File 438 as amended, passed and  
2 reprinted by the House as follows:

3 1. Page 2, by inserting after line 19 the  
4 following:

5 "If library materials or equipment to be loaned to  
6 a person have a value of \$500 or more, the owner shall  
7 require a deposit and shall require the borrower to  
8 enter into a written agreement setting forth the  
9 amount of the deposit, the due date and the penalties  
10 for failure to return the materials or equipment as  
11 agreed. The deposit shall be returned in full if the  
12 materials or equipment are returned without damage on  
13 or before the due date."

S-4212 Filed May 2, 1985  
*Adopted 5/13/85 (p. 1937)*

By CARR

SENATE AMENDMENT TO HOUSE FILE 438

H-4250

1 Amend House File 438 as amended, passed, and  
2 reprinted by the House as follows:

3 1. Page 2, line 8, by striking the word "week"  
4 and inserting the following: "month".

5 2. Page 2, line 10, by inserting after the word  
6 "attempt" the following: ", including the mailing by  
7 restricted certified mail of notice that such material  
8 or equipment is overdue and criminal actions will be  
9 taken,".

10 3. Page 2, by inserting after line 17 the  
11 following:

12 "After the expiration of three days following the  
13 due date, the owner of borrowed library equipment may  
14 request the assistance of a dispute resolution center,  
15 mediation center or appropriate law enforcement agency  
16 in recovering the equipment from the borrower.

17 The owner of library equipment may require deposits  
18 by borrowers and in the case of late returns the owner  
19 may impose graduated penalties of up to twenty-five  
20 percent of the value of the equipment, based upon the  
21 lateness of the return."

22 4. Page 2, by inserting after line 19 the  
23 following:

24 "If library materials or equipment to be loaned to  
25 a person have a value of \$500 or more, the owner shall  
26 require a deposit and shall require the borrower to  
27 enter into a written agreement setting forth the  
28 amount of the deposit, the due date and the penalties  
29 for failure to return the materials or equipment as  
30 agreed. The deposit shall be returned in full if the  
31 materials or equipment are returned without damage on  
32 or before the due date."

33 5. Title page, by striking lines 1 and 2 and  
34 inserting the following:

35 "An Act relating to the borrowing of library  
36 materials and equipment and evidence of intent in  
37 cases alleging theft of such materials and equipment,  
38 and providing penalties."

39 6. By renumbering, relettering, or redesignating  
40 and correcting internal references as necessary.

H-4250 FILED MAY 3, 1985

RECEIVED FROM THE SENATE

*Have concurred 5-4 (p 2335)*

## HOUSE FILE 438

## AN ACT

RELATING TO THE BORROWING OF LIBRARY MATERIALS AND EQUIPMENT AND EVIDENCE OF INTENT IN CASES ALLEGING THEFT OF SUCH MATERIALS AND EQUIPMENT, AND PROVIDING PENALTIES.

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

Section 1. Section 702.22, Code 1985, is amended to read as follows:

702.22 LIBRARY MATERIALS AND EQUIPMENT.

1. "Library materials" include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:

- 1 a. A public library.
- 2 b. A library of an educational, historical, or eleemosynary institution, organization, or society.
- 3 c. A museum.
- 4 d. A repository of public records.

2. "Library equipment" includes audio, visual, or audiovisual machines, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in subsection 1.

Sec. 2. Section 714.5, Code 1985, is amended to read as follows:

714.5 LIBRARY MATERIALS AND EQUIPMENT -- UNPURCHASED MERCHANDISE -- EVIDENCE OF INTENTION.

The fact that a person has concealed library materials or equipment as defined in section 702.22 or unpurchased property

of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or equipment or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of intent to deprive and, if the person conceals or causes to be concealed library materials or equipment or unpurchased property, upon the person or among the belongings of another, the finding of the same concealed materials, equipment or property is also material evidence of intent to deprive on the part of the person concealing the library materials, equipment or goods.

The fact that a person fails to return library materials for six two months or more after the date the person agreed to return the library materials, or fails to return library equipment for one month or more after the date the person agreed to return the library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment. Notices stating the provisions of this section and of section 808.12 with regard to library materials or equipment shall be posted in clear public view in all public libraries, in all libraries of educational, historical or charitable institutions, organizations or societies, in all museums and in all repositories of public records.

After the expiration of three days following the due date, the owner of borrowed library equipment may request the assistance of a dispute resolution center, mediation center or appropriate law enforcement agency in recovering the equipment from the borrower.

The owner of library equipment may require deposits by borrowers and in the case of late returns the owner may impose graduated penalties of up to twenty-five percent of the value of the equipment, based upon the lateness of the return.

In the case of lost library materials or equipment, arrangements may be made to make a monetary settlement.

If library materials or equipment to be loaned to a person have a value of \$500 or more, the owner shall require a deposit and shall require the borrower to enter into a written agreement setting forth the amount of the deposit, the due date and the penalties for failure to return the materials or equipment as agreed. The deposit shall be returned in full if the materials or equipment are returned without damage on or before the due date.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 438, Seventy-first General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 24, 1985

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TERRY E. BRANSTAD  
Governor