

MAR 2 1988

Place On Calendar

HOUSE FILE 2369
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House Study Bill 664)

Passed House, Date 3/16/88 (p. 848) Passed Senate, Date 3/29/88 (p. 1097)
Vote: Ayes 94 Nays 0 Vote: Ayes 48 Nays 0
Approved April 26, 1988

A BILL FOR

1 An Act relating to the duties and authority of the board of
2 parole.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2369

H-5631

1 Amend House File 2369 as follows:

2 1. By striking page 4, line 28, through page 5,
3 line 6, and inserting the following:
4 "908.1 ARREST OF ALLEGED PAROLE VIOLATOR -- NEWLY
5 DISCOVERED EVIDENCE.

6 A parole officer having probable cause to believe
7 that any person released on parole has violated the
8 parole plan or the conditions of parole may arrest
9 such person, or the parole officer may make a
10 complaint before a magistrate, charging such
11 violation, and if it appears from such complaint, or
12 from affidavits filed with it, that there is probable
13 cause to believe that such person has violated the
14 parole plan or the terms of parole, the magistrate
15 shall issue a warrant for the arrest of such person.
16 If a parole officer has newly discovered evidence
17 which indicates that a person released on parole
18 should not have been granted parole originally, the
19 parole officer shall present the evidence to the board
20 of parole and the board may issue an order to rescind
21 the parole."

H-5631 FILED MARCH 15, 1988 BY ROSENBERG of Story
Adopted 3/16 (p. 848)

1 Section 1. NEW SECTION. 902.11 MINIMUM SENTENCE --
2 ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK
3 RELEASE.

4 A person serving a sentence for conviction of a felony who
5 has a criminal record of one or more prior convictions for a
6 forcible felony or a crime of a similar gravity in this or any
7 other state, shall be denied parole or work release unless the
8 person has served at least one-half of the maximum term of the
9 defendant's sentence. However, the mandatory sentence
10 provided for by this section does not apply if either of the
11 following apply:

12 1. The sentence being served is for a felony other than a
13 forcible felony and the sentences for the prior forcible
14 felonies expired at least five years before the date of
15 conviction for the present felony.

16 2. The sentence being served is on a conviction for
17 operating a motor vehicle while under the influence of alcohol
18 or a drug under chapter 321J.

19 Sec. 2. Section 904A.4, Code 1987, is amended to read as
20 follows:

21 904A.4 DUTIES.

22 1. The board of parole shall interview and consider
23 inmates for parole or work release and a majority vote of the
24 members is required to grant a parole or work release.

25 2. A member of the board of parole shall conduct parole or
26 ~~work-release~~ revocation hearings and may revoke a parole or
27 ~~work-release~~, unless prior to the hearing the offender
28 requests that the revocation hearing be conducted by a three-
29 person panel of the board of parole, in which case a three-
30 member panel of the board of parole shall conduct the
31 revocation hearing and a majority vote of the panel is
32 required to revoke the parole ~~or-work-release~~.

33 3. A member of the board of parole shall conduct a final
34 work release case review, including a review of work release
35 disciplinary proceedings conducted by the department of

1 corrections and the judicial district, and may revoke work
2 release.

3 2 4. Immediately following an offender's diagnostic
4 review, as provided by section 246.202, the board shall
5 arrange an interview between a liaison officer of the board
6 and the offender to inform the offender of the earliest
7 eligibility for parole, the maximum permissible length of the
8 sentence, the rules and procedures regarding the issuance of
9 parole, the availability of parole interview waivers, and
10 other information deemed pertinent by the board or the liaison
11 officer.

12 ~~3.--The board shall gather and review information regarding~~
13 ~~new parole and work release programs being instituted or~~
14 ~~considered nationwide and determine which programs may be~~
15 ~~useful for this state.--This information and the resulting~~
16 ~~recommendations shall be forwarded to the director of the Iowa~~
17 ~~department of corrections on a quarterly basis.~~

18 ~~4.--The board shall maintain records regarding those indi-~~
19 ~~viduals granted parole, work release, furlough, or a similar~~
20 ~~release status, and the records shall reflect the relationship~~
21 ~~of the success of the inmates on release status to the~~
22 ~~programs completed by the inmates while in the institution.~~
23 ~~The information shall be forwarded to the office of the~~
24 ~~governor and to the chairpersons of the house standing~~
25 ~~committee on judiciary and law enforcement and the senate~~
26 ~~standing committee on judiciary annually.~~

27 5. The board shall conduct an annual review of parole and
28 work release programs and procedures used in this state. To
29 assist in this review, the board shall solicit written input
30 and comment from interested parties, including the general
31 public and inmates of the various institutions. The board
32 shall also conduct public hearings.

33 6. The board shall review the present system for gathering
34 and storing information on inmates to determine whether
35 increased utilization of data processing and computerization

1 techniques would assist in the orderly conduct of the parole
2 or work release system.

3 7. The board shall adopt and implement administrative
4 rules pursuant to chapter 17A to carry out the provisions of
5 this chapter.

6 Sec. 3. Section 906.5, Code Supplement 1987, is amended to
7 read as follows:

8 906.5 RECORD REVIEWED -- ~~ELIGIBILITY-OF-PRIOR-FORCIBLE~~
9 ~~PELON-FOR-PAROLE-OR-WORK-RELEASE---~~ RULES.

10 Within one year after the commitment of a person other than
11 a class "A" felon to the custody of the director of the Iowa
12 department of corrections, a member of the board shall
13 interview the person. Thereafter, at regular intervals, not
14 to exceed one year, the board shall interview the person and
15 consider the person's prospects for parole or work release.
16 At the time of an interview, the board shall consider all
17 pertinent information regarding the person, including the
18 circumstances of the person's offense, any presentence report
19 which is available, the previous social history and criminal
20 record of the person, the person's conduct, work, and attitude
21 in prison, and the reports of physical and mental examinations
22 that have been made.

23 ~~If-the-person-who-is-under-consideration-for-parole-is~~
24 ~~servng-a-sentence-for-conviction-of-a-felony-and-has-a~~
25 ~~criminal-record-of-one-or-more-prior-convictions-for-a~~
26 ~~forcible-felony-or-a-crime-of-a-similar-gravity-in-this-or-any~~
27 ~~other-state,-parole-shall-be-denied-unless-the-person-has~~
28 ~~served-at-least-one-half-of-the-maximum-term-of-the~~
29 ~~defendant's-sentence.--However,-the-mandatory-sentence~~
30 ~~provided-for-by-this-section-does-not-apply-if-~~

31 ~~1.--The-sentence-being-served-is-for-a-felony-other-than-a~~
32 ~~forcible-felony-and-the-sentences-for-the-prior-forcible~~
33 ~~felonies-expired-at-least-five-years-before-the-date-of~~
34 ~~conviction-for-the-present-felony.~~

35 ~~2.--The-sentence-being-served-is-on-a-conviction-for~~

1 ~~operating-a-motor-vehicle-while-under-the-influence-of-alcohol~~
2 ~~or-a-drug-under-chapter-321f-~~

3 A person while on parole or work release is under the
4 supervision of the district department of correctional
5 services of the district designated by the board of parole.
6 The department of corrections shall prescribe rules for
7 governing persons on parole or work release. The board may
8 adopt other rules not inconsistent with the rules of the
9 department of corrections as the board deems proper or
10 necessary for the performance of its functions.

11 Sec. 4. Section 906.16, unnumbered paragraph 1, Code 1987,
12 is amended to read as follows:

13 The time when a prisoner is on parole or work release from
14 the institution shall ~~be-held-to~~ apply upon to the sentence
15 against the parolee or work releasee ~~even-if~~ unless the parole
16 or work release is subsequently revoked, ~~except-that-the-time~~
17 ~~when-the-parolee-or-work-releasee-is-in-violation-of-the-terms~~
18 ~~of-the-parole-or-work-release-agreement-shall-not-apply-upon~~
19 ~~the-sentence.~~ If the parole or work release is revoked, the
20 board of parole shall determine the amount of time on parole
21 or work release that shall apply to the sentence against the
22 parolee or work releasee, except that the time the parolee or
23 work releasee was in compliance with the terms of the parole
24 or work release prior to the violation shall apply upon the
25 sentence.

26 Sec. 5. Section 908.1, Code 1987, is amended to read as
27 follows:

28 908.1 ARREST OF ALLEGED PAROLE VIOLATOR.

29 A parole officer having probable cause to believe that any
30 person released on parole has violated the conditions of
31 parole or having newly discovered evidence which indicates
32 that the parolee should not have been granted parole
33 originally, may arrest such person, or the parole officer may
34 make a complaint before a magistrate, charging such violation
35 or setting forth the newly discovered evidence, and if it

1 appears from such complaint, or from affidavits filed with it,
2 that there is probable cause to believe that such person has
3 violated the terms of parole or should have been denied parole
4 if the newly discovered evidence was available at the time
5 parole was granted, the magistrate shall issue a warrant for
6 the arrest of such person.

7 Sec. 6. Section 908.3, Code 1987, is amended to read as
8 follows:

9 908.3 PLACE OF PROBABLE CAUSE HEARING.

10 The probable cause hearing shall be held in ~~the same~~ any
11 county as in the same judicial district in which the alleged
12 parole violator had the initial appearance or in the county
13 from which the warrant for the arrest of the alleged parole
14 violator was issued. The hearing may be conducted through
15 electronic means.

16 Sec. 7. Section 908.6, Code 1987, is amended to read as
17 follows:

18 908.6 DISPOSITION BY LIAISON OFFICER.

19 If it appears from the evidence that there is no probable
20 cause to believe that the arrested person has violated the
21 conditions of parole, the liaison officer shall order the
22 arrested person to be released from custody and continued on
23 parole. If it appears that there is probable cause to believe
24 that the arrested person has violated the conditions of
25 parole, the liaison officer ~~shall~~ may commit the arrested
26 person to the custody of the Iowa department of corrections,
27 and the procedure prescribed in section 901.7 shall apply to
28 the commitment; ~~or~~ the liaison officer may recommend that the
29 arrested person be admitted to bail as provided in section
30 908.2 under terms and conditions as the officer may require;
31 or the liaison officer may order the person's release subject
32 to the terms of the person's parole with any modifications
33 that the liaison officer determines proper. The liaison
34 officer shall make a summary of the testimony and other
35 evidence considered and a statement of the facts relied on as

1 a basis for the finding of probable cause or no probable
2 cause, and shall without delay forward them together with all
3 documents relating to the matter to the executive secretary of
4 the parole board. If the alleged parole violator has waived
5 the probable cause hearing, the verbatim record of that
6 proceeding shall be forwarded in lieu of the summary of
7 evidence and statement of facts.

8 Sec. 8. Section 908.7, Code 1987, is amended to read as
9 follows:

10 908.7 ACTION BY PAROLE BOARD.

11 Upon a finding of probable cause to believe that a parole
12 violation has occurred, a member of the board of parole or, a
13 if requested by the alleged violator prior to the hearing, a
14 three-person panel of-three-or-more-members of the board shall
15 proceed without unreasonable delay to hear the charge of
16 parole violation. Upon receipt of the record prepared and
17 forwarded by the liaison officer, the ~~board-or~~ member or
18 three-person panel of-three-or-more-members of the board shall
19 fix a time and place for the hearing and shall notify in
20 writing the alleged violator, the alleged violator's attorney
21 of record, if any, and the Iowa department of corrections of
22 the hearing and the claimed violation of parole. The alleged
23 violator shall be given an opportunity to be heard by the
24 ~~board-or~~ member or three-person panel of-three-or-more-members
25 of the board under rules the board shall adopt. The member or
26 three-person panel of the board may take testimony and
27 otherwise conduct the hearing through electronic means. The
28 inquiry shall be limited to the following two matters:

- 29 1. Did the alleged parole violation actually occur?
30 2. If the violation did occur, should the violator's
31 parole be revoked?

32 If the ~~board-or~~ member or three-person panel of-three-or
33 more-members of the board determines that the parole should be
34 revoked, it shall make an order revoking the parole. The
35 ~~board-or~~ member or three-person panel of-three-or-more-members

1 of the board shall furnish the violator with a written
2 statement of the facts relied upon to establish a violation
3 and the reasons for revoking parole.

4 EXPLANATION

5 This bill allows a member of the board of parole to review
6 and revoke work release on the record of the work release
7 disciplinary hearings and appeal process conducted by the
8 department of corrections and the judicial district department
9 of corrections. The bill also eliminates several board of
10 parole research responsibilities.

11 The bill transfers from chapter 906 a provision that, with
12 certain exceptions, prevents the board of parole from granting
13 parole to a felon with a prior forcible felony conviction
14 until one-half of the maximum term of the felon's sentence has
15 been served and adds the provision as a new section in chapter
16 902.

17 The bill changes the manner of applying the time a prisoner
18 is on parole or work release to the prisoner's sentence.
19 Instead of applying all time spent on parole or work release
20 to the sentence, even if the parole or work release is
21 revoked, the bill authorizes the board of parole to determine
22 which portion of the time on parole or work release should be
23 applied to the sentence if the parole or work release is
24 revoked.

25 The bill allows a parole officer to arrest a parolee or
26 make a complaint before a magistrate regarding the parolee if
27 the officer has newly discovered evidence which indicates that
28 the parolee should not have been granted parole originally.

29 The bill allows a liaison officer who has conducted a
30 hearing to determine if there is probable cause to believe
31 that a parolee has violated parole, upon a finding of probable
32 cause, the option of ordering the parolee to be released on
33 bail or to be released subject to the terms of the parole with
34 any modifications the liaison officer determines proper.

35 The bill allows the board of parole to conduct a hearing to

1 determine if there is probable cause to believe that an
2 alleged parole violator has violated parole in any county in
3 the same judicial district in which the alleged parole
4 violator had the initial appearance or in the county from
5 which the warrant for the arrest of the alleged parole
6 violator was issued. The bill also allows a parole revocation
7 hearing to be conducted by a single member of the board or, if
8 requested by the alleged violator prior to the hearing, by a
9 three-person panel of the board. The bill also allows both
10 hearings to be conducted through electronic means.

11 SIMILAR TO LSB 8284SC

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HOUSE FILE 2369

H-5536

1 Amend House File 2369 as follows:

2 1. Page 1, by striking lines 25 through 32 and
3 inserting the following:

4 ~~"A member of the board of parole shall conduct~~
5 ~~parole or work release revocation hearings and may~~
6 ~~revoke a parole or work release, unless prior to the~~
7 ~~hearing the offender requests that the revocation~~
8 ~~hearing be conducted by a three person panel of the~~
9 ~~board of parole, in which case a three member panel of~~
10 ~~the board of parole shall conduct the revocation~~
11 ~~hearing and a majority vote of the panel is required~~
12 ~~to revoke the parole or work release.~~

13 2. A member of the board of parole shall
14 adjudicate parole revocation appeals and reviews,
15 unless the offender requests that the revocation
16 appeal or review be conducted by a three member panel
17 of the board of parole, in which case a three member
18 panel of the board of parole shall adjudicate the
19 revocation appeal or review and a majority of the
20 panel is required to modify the parole revocation
21 officer's decision."

22 2. Page 5, by inserting after line 6 the
23 following:

24 "Sec. ____ . Section 908.2, unnumbered paragraph 1,
25 Code 1987, is amended to read as follows:

26 An officer making an arrest of an alleged parole
27 violator shall take the arrested person before a
28 magistrate without unnecessary delay for an initial
29 appearance. At that time the alleged parole violator
30 shall be furnished with a written notice of the
31 claimed violation, shall be advised of the right to
32 appointed counsel under rule 26 of the rules of
33 criminal procedure, and shall be given notice that a
34 parole revocation hearing will take place and that its
35 purpose is to determine whether there is probable
36 cause to believe that the alleged parole violator has
37 committed a parole violation occurred and whether the
38 alleged violator's parole should be revoked."

39 3. Page 5, line 9, by striking the words
40 "PROBABLE CAUSE" and inserting the following:
41 "PROBABLE CAUSE PAROLE REVOCATION".

42 4. Page 5, line 10, by striking the words
43 "probable cause" and inserting the following:
44 "probable cause parole revocation".

45 5. Page 5, by striking lines 14 and 15 and
46 inserting the following: "violator was issued".

47 6. By striking page 5, line 16 through page 7,
48 line 3, and inserting the following:

49 "Sec. ____ . Section 908.4, Code 1987, is amended by
50 striking the section and inserting in lieu thereof the

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Page Two

1 following:

2 908.4 PAROLE REVOCATION HEARING.

3 The parole revocation hearing shall be conducted by
4 a parole revocation officer who is an attorney
5 appointed pursuant to section 904A.5. The revocation
6 hearing shall determine the following:

- 7 1. Whether the alleged parole violation occurred.
- 8 2. Whether the violator's parole should be
9 revoked.

10 The parole revocation officer shall make a verbatim
11 record of the proceedings. The alleged violator shall
12 be informed of the evidence against the violator,
13 shall be given an opportunity to be heard, shall have
14 the right to present witnesses and other evidence, and
15 shall have the right to cross-examine adverse
16 witnesses, except if the revocation officer finds that
17 a witness would be subjected to risk or harm if the
18 witness' identity were disclosed. The revocation
19 hearing may be conducted electronically.

20 Sec. ____ . Section 908.5, Code 1987, is amended by
21 striking the section and inserting in lieu thereof the
22 following:

23 908.5 DISPOSITION.

24 If the parole revocation officer determines that
25 the parole should not be revoked, the parole
26 revocation officer shall issue an order reinstating
27 the parole upon terms and conditions the parole
28 revocation officer shall determine, including the
29 transfer of the parolee to work release if
30 appropriate. If the parole revocation officer
31 determines that the parole should be revoked, the
32 parole revocation officer shall issue an order re-
33 voking the parole. The order of the parole revocation
34 officer shall contain findings of fact, conclusions of
35 law, and a disposition of the matter.

36 Sec. ____ . Section 908.6, Code 1987, is amended by
37 striking the section and inserting in lieu thereof the
38 following:

39 908.6 APPEAL OR REVIEW.

40 The order of the parole revocation officer shall
41 become the final decision of the board of parole
42 unless, within the time provided by rule, the parole
43 violator appeals the decision or a panel of the board
44 reviews the decision on its own motion. On appeal or
45 review of the parole revocation officer's decision,
46 the board panel has all the power which it would have
47 in initially making the revocation hearing decision.
48 The appeal or review shall be conducted pursuant to
49 rules adopted by the board of parole. The record on
50 appeal or review shall be the record made at the

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Page Three

1 parole revocation hearing conducted by the parole
2 revocation officer.

3 Sec. ____ . Section 908.7, Code 1987, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 908.7 WAIVER OF PAROLE REVOCATION HEARING.

7 The alleged parole violator may waive the parole
8 revocation hearing, in which event the parole
9 revocation officer shall proceed to determine the
10 disposition of the matter. The parole revocation
11 officer shall dispose of the case as provided in
12 section 908.4. The parole revocation officer shall
13 make a verbatim record of the proceedings. The waiver
14 proceeding may be conducted electronically.

15 Sec. ____ . Section 908.9, Code 1987, is amended to
16 read as follows:

17 908.9 DISPOSITION OF VIOLATOR.

18 If the parole of a parole violator is revoked, the
19 violator shall remain in the custody of the Iowa
20 department of corrections under the terms of the
21 parolee's original commitment. If the parole of a
22 parole violator is not revoked, the board parole
23 revocation officer or board panel shall order the
24 person's release subject to the terms of the person's
25 parole with any modifications that the board parole
26 revocation officer or board panel determines proper.

27 Sec. ____ . Section 908.10, Code 1987, is amended to
28 read as follows:

29 908.10 CONVICTION OF OTHER OFFENSE AS VIOLATION.

30 When the alleged violation consists of a conviction
31 of a public offense in this or any other state, ~~such~~
32 the conviction shall be proved by a certified copy of
33 the judgment of conviction, together with evidence
34 that the alleged violator is the person against whom
35 the judgment was rendered. Neither the ~~parole~~
36 officer, ~~court,~~ parole revocation officer nor board of
37 parole the board panel shall retry the facts
38 underlying such conviction.

39 Sec. ____ . Section 908.8, Code 1987, is repealed."

40 7. By renumbering as required.

H-5536 FILED MARCH 14, 1988 BY SHERZAN of Polk

Adopted 3/16 (p. 347)

HOUSE FILE 2369

H-5512

1 Amend House File 2369 as follows:

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

4 "Section 1. Section 246.909, Code 1987, is amended
5 to read as follows:

6 246.909 WORK RELEASE VIOLATORS --REIMBURSEMENT TO
7 THE DEPARTMENT OF CORRECTIONS FOR TRANSPORTATION
8 COSTS.

9 A The department of corrections shall arrange for
10 the return of a work release client who escapes or
11 participates in an act of absconding from the facility
12 to which the client is assigned to the client shall
13 reimburse the department of corrections for the cost
14 of transportation incurred because of the escape or
15 act of absconding. The amount of reimbursement shall
16 be the actual cost incurred by the department and
17 shall be credited to the support account from which
18 the billing occurred. The director of the department
19 of corrections shall recommend rules pursuant to
20 chapter 17A, subject to approval by the board of
21 corrections pursuant to section 246.105, subsection 7,
22 to implement this section."

23 2. Page 2, by striking lines 12 through 26 and
24 inserting the following:

25 "3 5. The board shall gather and review
26 information regarding new parole and work release
27 programs being instituted or considered nationwide and
28 determine which programs may be useful for this state.
29 This information and the resulting recommendations
30 shall be forwarded to the director of the Iowa
31 department of corrections on a quarterly basis.

32 4 6. The board shall maintain records regarding
33 those individuals granted parole, work release,
34 furlough, or a similar release status, and the records
35 shall reflect the relationship of the success of the
36 inmates on release status to the programs completed by
37 the inmates while in the institution. The information
38 shall be forwarded to the office of the governor and
39 to the chairpersons of the house standing committee on
40 judiciary and law enforcement and the senate standing
41 committee on judiciary annually."

42 3. By renumbering as necessary.

H-5512 FILED MARCH 10, 1988

BY ROSENBERG of Story

Adopted 3/15 (g. 800)

See Senate File 2369 to Amend 312a (p. 971)

HOUSE FILE 2369
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(As Amended and Passed by the House March 16, 1988)

Passed House, Date 3/16/88 (p. 945) Passed Senate, Date 5/24/88 (p. 1071)
Vote: Ayes 94 Nays 0 Vote: Ayes 48 Nays 0
Approved April 26, 1988

A BILL FOR

1 An Act relating to the duties and authority of the board of
2 parole.

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

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House Amendments _____

Section 1. Section 246.909, Code 1987, is amended to read
as follows:

2 246.909 WORK RELEASE VIOLATORS -- REIMBURSEMENT TO THE
4 DEPARTMENT OF CORRECTIONS FOR TRANSPORTATION COSTS.

5 A The department of corrections shall arrange for the
6 return of a work release client who escapes or participates in
7 an act of absconding from the facility to which the client is
8 assigned to the client shall reimburse the department of
9 corrections for the cost of transportation incurred because of
10 the escape or act of absconding. The amount of reimbursement
11 shall be the actual cost incurred by the department and shall
12 be credited to the support account from which the billing
13 occurred. The director of the department of corrections shall
14 recommend rules pursuant to chapter 17A, subject to approval
15 by the board of corrections pursuant to section 246.105,
16 subsection 7, to implement this section.

17 Sec. 2. NEW SECTION. 902.11 MINIMUM SENTENCE --
18 ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK
19 RELEASE.

20 A person serving a sentence for conviction of a felony who
21 has a criminal record of one or more prior convictions for a
22 forcible felony or a crime of a similar gravity in this or any
23 other state, shall be denied parole or work release unless the
24 person has served at least one-half of the maximum term of the
25 defendant's sentence. However, the mandatory sentence
26 provided for by this section does not apply if either of the
27 following apply:

28 1. The sentence being served is for a felony other than a
29 forcible felony and the sentences for the prior forcible
30 felonies expired at least five years before the date of
31 conviction for the present felony.

32 2. The sentence being served is on a conviction for
33 operating a motor vehicle while under the influence of alcohol
34 or a drug under chapter 321J.

35 Sec. 3. Section 904A.4, Code 1987, is amended to read as

1 follows:

2 904A.4 DUTIES.

3 1. The board of parole shall interview and consider
4 inmates for parole or work release and a majority vote of the
5 members is required to grant a parole or work release.

6 ~~A member of the board of parole shall conduct parole or
7 work release revocation hearings and may revoke a parole or
8 work release, unless prior to the hearing the offender
9 requests that the revocation hearing be conducted by a three-
10 person panel of the board of parole, in which case a three-
11 member panel of the board of parole shall conduct the
12 revocation hearing and a majority vote of the panel is
13 required to revoke the parole or work release.~~

14 2. A member of the board of parole shall adjudicate parole
15 revocation appeals and reviews, unless the offender requests
16 that the revocation appeal or review be conducted by a three-
17 member panel of the board of parole, in which case a three-
18 member panel of the board of parole shall adjudicate the
19 revocation appeal or review and a majority of the panel is
20 required to modify the parole revocation officer's decision.

21 3. A member of the board of parole shall conduct a final
22 work release case review, including a review of work release
23 disciplinary proceedings conducted by the department of
24 corrections and the judicial district, and may revoke work
25 release.

26 4. Immediately following an offender's diagnostic
27 review, as provided by section 246.202, the board shall
28 arrange an interview between a liaison officer of the board
29 and the offender to inform the offender of the earliest
30 eligibility for parole, the maximum permissible length of the
31 sentence, the rules and procedures regarding the issuance of
32 parole, the availability of parole interview waivers, and
33 other information deemed pertinent by the board or the liaison
34 officer.

35 5. The board shall gather and review information

1 regarding new parole and work release programs being
2 instituted or considered nationwide and determine which
3 programs may be useful for this state. This information and
4 the resulting recommendations shall be forwarded to the
5 director of the Iowa department of corrections on a quarterly
6 basis.

7 4 6. The board shall maintain records regarding those
8 individuals granted parole, work release, furlough, or a
9 similar release status, and the records shall reflect the
10 relationship of the success of the inmates on release status
11 to the programs completed by the inmates while in the
12 institution. The information shall be forwarded to the office
13 of the governor and to the chairpersons of the house standing
14 committee on judiciary and law enforcement and the senate
15 standing committee on judiciary annually.

16 5. The board shall conduct an annual review of parole and
17 work release programs and procedures used in this state. To
18 assist in this review, the board shall solicit written input
19 and comment from interested parties, including the general
20 public and inmates of the various institutions. The board
21 shall also conduct public hearings.

22 6. The board shall review the present system for gathering
23 and storing information on inmates to determine whether
24 increased utilization of data processing and computerization
25 techniques would assist in the orderly conduct of the parole
26 or work release system.

27 7. The board shall adopt and implement administrative
28 rules pursuant to chapter 17A to carry out the provisions of
29 this chapter.

30 Sec. 4. Section 906.5, Code Supplement 1987, is amended to
31 read as follows:

32 906.5 RECORD REVIEWED -- ~~ELIGIBILITY-OF-PRIOR-FORCIBLE~~
33 ~~FELON-FOR-PAROLE-OR-WORK-RELEASE---~~ RULES.

34 Within one year after the commitment of a person other than
35 a class "A" felon to the custody of the director of the Iowa

1 department of corrections, a member of the board shall
 2 interview the person. Thereafter, at regular intervals, not
 3 to exceed one year, the board shall interview the person and
 4 consider the person's prospects for parole or work release.
 5 At the time of an interview, the board shall consider all
 6 pertinent information regarding the person, including the
 7 circumstances of the person's offense, any presentence report
 8 which is available, the previous social history and criminal
 9 record of the person, the person's conduct, work, and attitude
 10 in prison, and the reports of physical and mental examinations
 11 that have been made.

12 ~~If the person who is under consideration for parole is~~
 13 ~~serving a sentence for conviction of a felony and has a~~
 14 ~~criminal record of one or more prior convictions for a~~
 15 ~~forcible felony or a crime of a similar gravity in this or any~~
 16 ~~other state, parole shall be denied unless the person has~~
 17 ~~served at least one-half of the maximum term of the~~
 18 ~~defendant's sentence. -- However, the mandatory sentence~~
 19 ~~provided for by this section does not apply if:~~

20 ~~1. -- The sentence being served is for a felony other than a~~
 21 ~~forcible felony and the sentences for the prior forcible~~
 22 ~~felonies expired at least five years before the date of~~
 23 ~~conviction for the present felony.~~

24 ~~2. -- The sentence being served is on a conviction for~~
 25 ~~operating a motor vehicle while under the influence of alcohol~~
 26 ~~or a drug under chapter 321F.~~

27 A person while on parole or work release is under the
 28 supervision of the district department of correctional
 29 services of the district designated by the board of parole.
 30 The department of corrections shall prescribe rules for
 31 governing persons on parole or work release. The board may
 32 adopt other rules not inconsistent with the rules of the
 33 department of corrections as the board deems proper or
 34 necessary for the performance of its functions.

35 Sec. 5. Section 906.16, unnumbered paragraph 1, Code 1987,

1 is amended to read as follows:

2 The time when a prisoner is on parole or work release from
3 the institution shall ~~be held to apply upon to~~ the sentence
4 against the parolee or work releasee ~~even-if~~ unless the parole
5 or work release is subsequently revoked, ~~except that the time~~
6 ~~when the parolee or work releasee is in violation of the terms~~
7 ~~of the parole or work release agreement shall not apply upon~~
8 ~~the sentence.~~ If the parole or work release is revoked, the
9 board of parole shall determine the amount of time on parole
10 or work release that shall apply to the sentence against the
11 parolee or work releasee, except that the time the parolee or
12 work releasee was in compliance with the terms of the parole
13 or work release prior to the violation shall apply upon the
14 sentence.

15 Sec. 6. Section 908.1, Code 1987, is amended to read as
16 follows:

17 908.1 ARREST OF ALLEGED PAROLE VIOLATOR -- NEWLY
18 DISCOVERED EVIDENCE.

19 A parole officer having probable cause to believe that any
20 person released on parole has violated the parole plan or the
21 conditions of parole may arrest such person, or the parole
22 officer may make a complaint before a magistrate, charging
23 such violation, and if it appears from such complaint, or from
24 affidavits filed with it, that there is probable cause to
25 believe that such person has violated the parole plan or the
26 terms of parole, the magistrate shall issue a warrant for the
27 arrest of such person. If a parole officer has newly
28 discovered evidence which indicates that a person released on
29 parole should not have been granted parole originally, the
30 parole officer shall present the evidence to the board of
31 parole and the board may issue an order to rescind the parole.

32 Sec. 7. Section 908.2, unnumbered paragraph 1, Code 1987,
33 is amended to read as follows:

34 An officer making an arrest of an alleged parole violator
35 shall take the arrested person before a magistrate without

1 unnecessary delay for an initial appearance. At that time the
2 alleged parole violator shall be furnished with a written
3 notice of the claimed violation, shall be advised of the right
4 to appointed counsel under rule 26 of the rules of criminal
5 procedure, and shall be given notice that a parole revocation
6 hearing will take place and that its purpose is to determine
7 whether there-is-probable-cause-to-believe-that the alleged
8 parole violator-has-committed-a-parole violation occurred and
9 whether the alleged violator's parole should be revoked.

10 Sec. 8. Section 908.3, Code 1987, is amended to read as
11 follows:

12 908.3 PLACE OF PROBABLE-CAUSE PAROLE REVOCATION HEARING.

13 The probable-cause parole revocation hearing shall be held
14 in the-same any county as in the same judicial district in
15 which the alleged parole violator had the initial appearance
16 or in the county from which the warrant for the arrest of the
17 alleged parole violator was issued.

18 Sec. 9. Section 908.4, Code 1987, is amended by striking
19 the section and inserting in lieu thereof the following:

20 908.4 PAROLE REVOCATION HEARING.

21 The parole revocation hearing shall be conducted by a
22 parole revocation officer who is an attorney appointed
23 pursuant to section 904A.5. The revocation hearing shall
24 determine the following:

- 25 1. Whether the alleged parole violation occurred.
- 26 2. Whether the violator's parole should be revoked.

27 The parole revocation officer shall make a verbatim record
28 of the proceedings. The alleged violator shall be informed of
29 the evidence against the violator, shall be given an
30 opportunity to be heard, shall have the right to present
31 witnesses and other evidence, and shall have the right to
32 cross-examine adverse witnesses, except if the revocation
33 officer finds that a witness would be subjected to risk or
34 harm if the witness' identity were disclosed. The revocation
hearing may be conducted electronically.

1 Sec. 10. Section 908.5, Code 1987, is amended by striking
2 the section and inserting in lieu thereof the following:

3 908.5 DISPOSITION.

4 If the parole revocation officer determines that the parole
5 should not be revoked, the parole revocation officer shall
6 issue an order reinstating the parole upon terms and
7 conditions the parole revocation officer shall determine,
8 including the transfer of the parolee to work release if
9 appropriate. If the parole revocation officer determines that
10 the parole should be revoked, the parole revocation officer
11 shall issue an order revoking the parole. The order of the
12 parole revocation officer shall contain findings of fact,
13 conclusions of law, and a disposition of the matter.

14 Sec. 11. Section 908.6, Code 1987, is amended by striking
15 the section and inserting in lieu thereof the following:

16 908.6 APPEAL OR REVIEW.

17 The order of the parole revocation officer shall become the
18 final decision of the board of parole unless, within the time
19 provided by rule, the parole violator appeals the decision or
20 a panel of the board reviews the decision on its own motion.
21 On appeal or review of the parole revocation officer's
22 decision, the board panel has all the power which it would
23 have in initially making the revocation hearing decision. The
24 appeal or review shall be conducted pursuant to rules adopted
25 by the board of parole. The record on appeal or review shall
26 be the record made at the parole revocation hearing conducted
27 by the parole revocation officer.

28 Sec. 12. Section 908.7, Code 1987, is amended by striking
29 the section and inserting in lieu thereof the following:

30 908.7 WAIVER OF PAROLE REVOCATION HEARING.

31 The alleged parole violator may waive the parole revocation
32 hearing, in which event the parole revocation officer shall
33 proceed to determine the disposition of the matter. The
34 parole revocation officer shall dispose of the case as
35 provided in section 908.4. The parole revocation officer

1 shall make a verbatim record of the proceedings. The waiver
2 proceeding may be conducted electronically.

3 Sec. 13. Section 908.9, Code 1987, is amended to read as
4 follows:

5 908.9 DISPOSITION OF VIOLATOR.

6 If the parole of a parole violator is revoked, the violator
7 shall remain in the custody of the Iowa department of
8 corrections under the terms of the parolee's original
9 commitment. If the parole of a parole violator is not
10 revoked, the board parole revocation officer or board panel
11 shall order the person's release subject to the terms of the
12 person's parole with any modifications that the board parole
13 revocation officer or board panel determines proper.

14 Sec. 14. Section 908.10, Code 1987, is amended to read as
15 follows:

16 908.10 CONVICTION OF OTHER OFFENSE AS VIOLATION.

17 When the alleged violation consists of a conviction of a
18 public offense in this or any other state, such the conviction
19 shall be proved by a certified copy of the judgment of
20 conviction, together with evidence that the alleged violator
21 is the person against whom the judgment was rendered. Neither
22 the liaison-officer, court, parole revocation officer nor
23 board-of-parole the board panel shall retry the facts
24 underlying such conviction.

25 Sec. 15. Section 908.8, Code 1987, is repealed.

26 SIMILAR TO LSB 8284SC

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115B 664

Judiciary and Law Enforcement: Rosenberg, Chair; Hansen of Woodbury, Kramer,
Paulin, Peterson of Carroll, Plasier and Sherzan.

ary & Law Enforcement

HOUSE FILE 2369

BY (PROPOSED BOARD OF PAROLE
BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the procedure under which the board of parole
2 determines whether an alleged parole violation has occurred.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 908.3, Code 1987, is amended to read as
2 follows:

3 908.3 PLACE OF PROBABLE CAUSE HEARING.

4 The probable cause hearing shall be held in ~~the same~~ any
5 county as in the same judicial district in which the alleged
6 parole violator had the initial appearance. The hearing may
7 be conducted through electronic means.

8 Sec. 2. Section 908.7, Code 1987, is amended to read as
9 follows:

10 908.7 ACTION BY PAROLE BOARD.

11 Upon a finding of probable cause to believe that a parole
12 violation has occurred, a member of the board of parole or, a
13 if requested by the alleged violator prior to the hearing, a
14 three-person panel of-three-or-more-members of the board shall
15 proceed without unreasonable delay to hear the charge of
16 parole violation. Upon receipt of the record prepared and
17 forwarded by the liaison officer, the ~~board-or~~ member or
18 three-person panel of-three-or-more-members of the board shall
19 fix a time and place for the hearing and shall notify in
20 writing the alleged violator, the alleged violator's attorney
21 of record, if any, and the Iowa department of corrections of
22 the hearing and the claimed violation of parole. The alleged
23 violator shall be given an opportunity to be heard by the
24 ~~board-or~~ member or three-person panel of-three-or-more-members
25 of the board under rules the board shall adopt. The member or
26 three-person panel of the board may take testimony and
27 otherwise conduct the hearing through electronic means. The
28 inquiry shall be limited to the following two matters:

- 29 1. Did the alleged parole violation actually occur?
30 2. If the violation did occur, should the violator's
31 parole be revoked?

32 If the ~~board-or~~ member or three-person panel of-three-or
33 more-members of the board determines that the parole should be
34 revoked, it shall make an order revoking the parole. The
35 ~~board-or~~ member or three-person panel of-three-or-more-members

1 of the board shall furnish the violator with a written
2 statement of the facts relied upon to establish a violation
3 and the reasons for revoking parole.

4 EXPLANATION

5 This bill allows the board of parole to conduct a hearing
6 to determine if there is probable cause to believe that an
7 alleged parole violator has violated parole in any county in
8 the same judicial district in which the alleged parole
9 violator had the initial appearance. The bill also allows a
10 parole revocation hearing to be conducted by a single member
11 of the board or, if requested by the alleged violator prior to
12 the hearing, by a three-person panel of the board. The bill
13 also allows both hearings to be conducted through electronic
14 means.

15 BACKGROUND STATEMENT

16 SUBMITTED BY THE AGENCY

17 This bill permits the board of parole to conduct the
18 probable cause parole revocation hearing at any location in
19 the judicial district. This bill makes technical changes to
20 make section 908.7 conform to section 904A.4 which permits one
21 member of the board of parole to conduct final parole
22 revocation hearings unless the alleged parole violator
23 requests a hearing before a three-person panel. The bill also
24 permits the board to conduct the hearing by electronic means.

25 COMPANION TO LSB 7482DS

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HOUSE FILE 2369

AN ACT
RELATING TO THE DUTIES AND AUTHORITY OF THE BOARD OF PAROLE.

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

Section 1. Section 246.909, Code 1987, is amended to read as follows:

246.909 WORK RELEASE VIOLATORS -- REIMBURSEMENT TO THE DEPARTMENT OF CORRECTIONS FOR TRANSPORTATION COSTS.

A The department of corrections shall arrange for the return of a work release client who escapes or participates in an act of absconding from the facility to which the client is assigned to the client shall reimburse the department of corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the billing occurred. The director of the department of corrections shall recommend rules pursuant to chapter 17A, subject to approval by the board of corrections pursuant to section 246.105, subsection 7, to implement this section.

Sec. 2. NEW SECTION. 902.11 MINIMUM SENTENCE -- ELIGIBILITY OF PRIOR FORCIBLE FELON FOR PAROLE OR WORK RELEASE.

A person serving a sentence for conviction of a felony who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the

person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

1. The sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

Sec. 3. Section 904A.4, Code 1987, is amended to read as follows:

904A.4 DUTIES.

1. The board of parole shall interview and consider inmates for parole or work release and a majority vote of the members is required to grant a parole or work release.

~~A member of the board of parole shall conduct parole or work release revocation hearings and may revoke a parole or work release, unless prior to the hearing the offender requests that the revocation hearing be conducted by a three-person panel of the board of parole; in which case a three-member panel of the board of parole shall conduct the revocation hearing and a majority vote of the panel is required to revoke the parole or work release.~~

2. A member of the board of parole shall adjudicate parole revocation appeals and reviews, unless the offender requests that the revocation appeal or review be conducted by a three-member panel of the board of parole, in which case a three-member panel of the board of parole shall adjudicate the revocation appeal or review and a majority of the panel is required to modify the parole revocation officer's decision.

3. A member of the board of parole shall conduct a final work release case review, including a review of work release disciplinary proceedings conducted by the department of

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corrections and the judicial district, and may revoke work release.

2 4. Immediately following an offender's diagnostic review, as provided by section 246.202, the board shall arrange an interview between a liaison officer of the board and the offender to inform the offender of the earliest eligibility for parole, the maximum permissible length of the sentence, the rules and procedures regarding the issuance of parole, the availability of parole interview waivers, and other information deemed pertinent by the board or the liaison officer.

3 5. The board shall gather and review information regarding new parole and work release programs being instituted or considered nationwide and determine which programs may be useful for this state. This information and the resulting recommendations shall be forwarded to the director of the Iowa department of corrections on a quarterly basis.

4 6. The board shall maintain records regarding those individuals granted parole, work release, furlough, or a similar release status, and the records shall reflect the relationship of the success of the inmates on release status to the programs completed by the inmates while in the institution. The information shall be forwarded to the office of the governor and to the chairpersons of the house standing committee on judiciary and law enforcement and the senate standing committee on judiciary annually.

5 7. The board shall conduct an annual review of parole and work release programs and procedures used in this state. To assist in this review, the board shall solicit written input and comment from interested parties, including the general public and inmates of the various institutions. The board shall also conduct public hearings.

6 8. The board shall review the present system for gathering and scoring information on inmates to determine

whether increased utilization of data processing and computerization techniques would assist in the orderly conduct of the parole or work release system.

7 9. The board shall adopt and implement administrative rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 4. Section 906.5, Code Supplement 1987, is amended to read as follows:

906.5 RECORD REVIEWED -- ~~ELIGIBILITY-OF-PRISONER-FOR-ELIGIBLE PERSON-FOR-PAROLE-OR-WORK-RELEASE--~~ RULES.

Within one year after the commitment of a person other than a class "A" felon to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole or work release. At the time of an interview, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

~~if-the-person-who-is-under-consideration-for-parole-is serving-a-sentence-for-conviction-of-a-felony-and-has-a criminal-record-of-one-or-more-prior-convictions-for-a forcible-felony-or-a-crime-of-a-similar-gravity-in-this-or-any other-state,-parole-shall-be-denied-unless-the-person-has served-at-least-one-half-of-the-maximum-term-of-the defendant's-sentence--However,-the-mandatory-sentence provided-for-by-this-section-does-not-apply-if~~

~~the-sentence-being-served-is-for-a-felony-other-than-a forcible-felony-and-the-sentences-for-the-prior-forcible felonies-expired-at-least-five-years-before-the-date-of conviction-for-the-present-felony;~~

~~---The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321A.~~

A person while on parole or work release is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe rules for governing persons on parole or work release. The board may adopt other rules not inconsistent with the rules of the department of corrections as the board deems proper or necessary for the performance of its functions.

Sec. 5. Section 906.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The time when a prisoner is on parole or work release from the institution shall ~~be held to apply upon~~ co the sentence against the parolee or work releasee ~~even if unless~~ the parole or work release is subsequently revoked ~~except that the time when the parolee or work releasee is in violation of the terms of the parole or work release agreement shall not apply upon the sentence.~~ If the parole or work release is revoked, the board of parole shall determine the amount of time on parole or work release that shall apply to the sentence against the parolee or work releasee, except that the time the parolee or work releasee was in compliance with the terms of the parole or work release prior to the violation shall apply upon the sentence.

Sec. 6. Section 908.1, Code 1987, is amended to read as follows:

908.1 ARREST OF ALLEGED PAROLE VIOLATOR -- NEWLY DISCOVERED EVIDENCE.

A parole officer having probable cause to believe that any person released on parole has violated the parole plan or the conditions of parole may arrest such person, or the parole officer may make a complaint before a magistrate, charging such violation, and if it appears from such complaint, or from

affidavits filed with it, that there is probable cause to believe that such person has violated the parole plan or the terms of parole, the magistrate shall issue a warrant for the arrest of such person. If a parole officer has newly discovered evidence which indicates that a person released on parole should not have been granted parole originally, the parole officer shall present the evidence to the board of parole and the board may issue an order to rescind the parole.

Sec. 7. Section 908.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

An officer making an arrest of an alleged parole violator shall take the arrested person before a magistrate without unnecessary delay for an initial appearance. At that time the alleged parole violator shall be furnished with a written notice of the claimed violation, shall be advised of the right to appointed counsel under rule 26 of the rules of criminal procedure, and shall be given notice that a parole revocation hearing will take place and that its purpose is to determine whether there is probable cause to believe that the alleged parole violator has committed a parole violation occurred and whether the alleged violator's parole should be revoked.

Sec. 8. Section 908.3, Code 1987, is amended to read as follows:

908.3 PLACE OF PROBABLE-CAUSE PAROLE REVOCATION HEARING.

The probable-cause parole revocation hearing shall be held in the same any county as in the same judicial district in which the alleged parole violator had the initial appearance or in the county from which the warrant for the arrest of the alleged parole violator was issued.

Sec. 9. Section 908.4, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.4 PAROLE REVOCATION HEARING.

The parole revocation hearing shall be conducted by a parole revocation officer who is an attorney appointed pursuant to section 904A.5. The revocation hearing shall conform to the following:

1. Whether the alleged parole violation occurred;
2. Whether the violator's parole should be revoked.

The parole revocation officer shall make a verbatim record of the proceedings. The alleged violator shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the revocation officer finds that a witness would be subjected to risk of harm if the witness' identity were disclosed. The revocation hearing may be conducted electronically.

Sec. 10. Section 908.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.5 DISPOSITION.

If the parole revocation officer determines that the parole should not be revoked, the parole revocation officer shall issue an order reinstating the parole upon terms and conditions the parole revocation officer shall determine, including the transfer of the parolee to work release if appropriate. If the parole revocation officer determines that the parole should be revoked, the parole revocation officer shall issue an order revoking the parole. The order of the parole revocation officer shall contain findings of fact, conclusions of law, and a disposition of the matter.

Sec. 11. Section 908.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.6 APPEAL OR REVIEW.

The order of the parole revocation officer shall become the final decision of the board of parole unless, within the time provided by rule, the parole violator appeals the decision or a panel of the board reviews the decision on its own motion. On appeal or review of the parole revocation officer's decision, the board panel has all the power which it would have in initially making the revocation hearing decision. The appeal or review shall be conducted pursuant to rules adopted

by the board of parole. The record on appeal or review shall be the record made at the parole revocation hearing conducted by the parole revocation officer.

Sec. 12. Section 908.7, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

908.7 WAIVER OF PAROLE REVOCATION HEARING.

The alleged parole violator may waive the parole revocation hearing, in which event the parole revocation officer shall proceed to determine the disposition of the matter. The parole revocation officer shall dispose of the case as provided in section 908.4. The parole revocation officer shall make a verbatim record of the proceedings. The waiver proceeding may be conducted electronically.

Sec. 13. Section 908.9, Code 1987, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR.

If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. If the parole of a parole violator is not revoked, the board parole revocation officer or board panel shall order the person's release subject to the terms of the person's parole with any modifications that the board parole revocation officer or board panel determines proper.

Sec. 14. Section 908.10, Code 1987, is amended to read as follows:

908.10 CONVICTION OF OTHER OFFENSE AS VIOLATION.

When the alleged violation consists of a conviction of a public offense in this or any other state, such the conviction shall be proved by a certified copy of the judgment of conviction, together with evidence that the alleged violator is the person against whom the judgment was rendered. Neither the board of parole ~~nor~~ parole revocation officer ~~nor~~ board of parole the board panel shall retry the facts underlying such conviction.

Sec. 15. Section 908.8, Code 1987, is repealed.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2369, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 26, 1988

TERRY E. BRANSTAD
Governor

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