

S-3/14/96

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MAR 5 1996

Place On Calendar

HOUSE FILE 2456
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 415)

(P. 684) Passed House, Date 3-13-96 (P. 1063) Passed Senate, Date 3/26/96
 Vote: Ayes 97 Nays 0 Vote: Ayes 49 Nays 0
 Approved April 16, 1996

A BILL FOR

1 An Act relating to the rights of victims of criminal acts.
 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2456

1 Section 1. Section 910A.6, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. The right to be informed of any plea
4 agreements related to the crime for which the person is a
5 registered victim.

6 EXPLANATION

7 This bill provides for notification to persons, registered
8 as victims under the victim and witness protection chapter, of
9 plea agreements in the case related to the crime for which the
10 person is a registered victim.

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H-5328

1 Amend House File 2456 as follows:
 2 1. By striking everything after the enacting
 3 clause and inserting the following:
 4 "Section 1. Section 331.653, Code Supplement 1995,
 5 is amended by adding the following new subsection:
 6 NEW SUBSECTION. 65A. Carry out the duties imposed
 7 under section 910A.8.
 8 Sec. 2. Section 331.756, Code Supplement 1995, is
 9 amended by adding the following new subsection:
 10 NEW SUBSECTION. 83A. Carry out the duties imposed
 11 under sections 910A.2, 910A.5, and 910A.6.
 12 Sec. 3. Section 910A.1, Code 1995, is amended by
 13 adding the following new subsection:
 14 NEW SUBSECTION. 1A. "Victim impact statement"
 15 means a written or oral presentation to the court by
 16 the victim or the victim's representative that
 17 indicates the physical, emotional, financial, or other
 18 effects of the offense upon the victim.
 19 Sec. 4. Section 910A.6, subsection 1, Code 1995,
 20 is amended to read as follows:
 21 1. The scheduled date, time, and place of trial,
 22 and the cancellation or postponement of a court
 23 proceeding that was expected to require the victim's
 24 attendance, in any criminal case relating to the crime
 25 for which the person is a registered victim.
 26 Sec. 5. Section 910A.6, Code 1995, is amended by
 27 adding the following new subsections:
 28 NEW SUBSECTION. 6. Except where the prosecuting
 29 attorney determines that disclosure of such
 30 information would unreasonably interfere with the
 31 investigation, at the request of the registered
 32 victim, notice of the status of the investigation, to
 33 be provided by law enforcement authorities
 34 investigating the case, until the alleged assailant is
 35 apprehended or the investigation is closed.
 36 NEW SUBSECTION. 7. The right to be informed of
 37 any plea agreements related to the crime for which the
 38 person is a registered victim.
 39 NEW SUBSECTION. 8. The victim's right to make an
 40 oral victim impact statement, in the presence of the
 41 defendant, as well as notification of the time and
 42 place for such statement.
 43 Sec. 6. Section 910A.8, Code 1995, is amended by
 44 adding the following new subsection:
 45 NEW SUBSECTION. 4. The offender's transfer from
 46 local custody to custody in another locality.
 47 Sec. 7. Section 910A.9, Code 1995, is amended by
 48 adding the following new subsection:
 49 NEW SUBSECTION. 6. The date on which the offender
 50 is expected to be transferred from custody in one

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1 institution to another, or to custody in an
 2 institution not under the control of the department of
 3 corrections."

By HARRISON of Scott

H-5328 FILED MARCH 12, 1996

as drafted
 3/13/96
 (P. 684)

HOUSE FILE 2456

H-5377

1 Amend the amendment, H-5328, to House File 2456, as
2 follows:

3 1. Page 1, by inserting after line 18 the
4 following:

5 "Sec. ____ Section 910A.5, Code 1995, is amended
6 to read as follows:

7 910A.5 VICTIM IMPACT STATEMENT.

8 1. A victim may present a victim impact statement
9 to the court using one or more of the following
10 methods:

11 a. A victim may file a signed victim impact
12 statement with the county attorney, and a filed impact
13 statement shall be included in the presentence
14 investigation report. If a presentence investigation
15 report is not ordered by the court, a filed victim
16 impact statement shall be provided to the court prior
17 to sentencing.

18 ~~The court shall consider a filed victim impact~~
19 ~~statement in determining the appropriate sentence and~~
20 ~~in entering any order of restitution to the victim~~
21 ~~pursuant to chapter 910.~~

22 b. A victim may orally present a victim impact
23 statement at the sentencing hearing, in the presence
24 of the defendant.

25 c. If the victim is unable to make an oral or
26 written statement because of the victim's age, or
27 mental, emotional, or physical incapacity, the
28 victim's attorney or a designated representative shall
29 have the opportunity to make a statement on behalf of
30 the victim.

31 2. ~~The~~ A victim impact statement shall:
32 ~~---1---~~ ~~Identify~~ include the identification of the
33 victim of the offense, and may include the following:

34 2. a. ~~Itemize~~ Itemization of any economic loss
35 suffered by the victim as a result of the offense.
36 For purposes of this paragraph, a pecuniary damages
37 statement prepared by a county attorney pursuant to
38 section 910.3, may serve as the itemization of
39 economic loss.

40 3. b. ~~Identify~~ Identification of any physical
41 injury suffered by the victim as a result of the
42 offense with detail as to its seriousness and
43 permanence.

44 4. c. ~~Describe~~ Description of any change in the
45 victim's personal welfare or familial relationships as
46 a result of the offense.

47 5. d. ~~Describe~~ Description of any request for
48 psychological services initiated by the victim or the
49 victim's family as a result of the offense.

50 6. e. ~~Contain any~~ Any other information related to

H-5377

H-5377

Page 2

1 the impact of the offense upon the victim."

2 2. By renumbering as necessary.

By LARSON of Linn
HARRISON of Scott
LAMBERTI of Polk
TEIG of Hamilton
DINKLA of Guthrie
HAMMITT BARRY of Harrison
CHURCHILL of Polk

TAYLOR of Linn
BRUNKHORST of Bremer
MUNDIE of Webster
HEATON of Henry
BODDICKER of Cedar
GARMAN of Story

H-5377 FILED MARCH 13, 1996

Adapted 3-13-96
(P. 684)

5-3/13/96 Judiciary
S. 3/4/96 Amend/Re Pass
w/ S-5420

HOUSE FILE 2456
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 415)

(As Amended and Passed by the House, March 13, 1996)

Re-Passed House, ^(P.1331) Date 4/3/96 Passed Senate, ^(P.1063) Date 3/26/96
Vote: Ayes 100 Nays 0 Vote: Ayes 49 Nays 0
Approved April 16, 1996 Re-passed 49-0
4/8/96 (P.1255)

A BILL FOR

1 An Act relating to the rights of victims of criminal acts.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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All New Language by the House

1 Section 1. Section 331.653, Code Supplement 1995, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 65A. Carry out the duties imposed under
4 section 910A.8.

5 Sec. 2. Section 331.756, Code Supplement 1995, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 83A. Carry out the duties imposed under
8 sections 910A.2, 910A.5, and 910A.6.

9 Sec. 3. Section 910A.1, Code 1995, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 1A. "Victim impact statement" means a
12 written or oral presentation to the court by the victim or the
13 victim's representative that indicates the physical,
14 emotional, financial, or other effects of the offense upon the
15 victim.

16 Sec. 4. Section 910A.5, Code 1995, is amended to read as
17 follows:

18 910A.5 VICTIM IMPACT STATEMENT.

19 1. A victim may present a victim impact statement to the
20 court using one or more of the following methods:

21 a. A victim may file a signed victim impact statement with
22 the county attorney, and a filed impact statement shall be
23 included in the presentence investigation report. If a
24 presentence investigation report is not ordered by the court,
25 a filed victim impact statement shall be provided to the court
26 prior to sentencing.

27 ~~The court shall consider a filed victim impact statement in~~
28 ~~determining the appropriate sentence and in entering any order~~
29 ~~of restitution to the victim pursuant to chapter 910.~~

30 b. A victim may orally present a victim impact statement
31 at the sentencing hearing, in the presence of the defendant.

32 c. If the victim is unable to make an oral or written
33 statement because of the victim's age, or mental, emotional,
34 or physical incapacity, the victim's attorney or a designated
35 representative shall have the opportunity to make a statement

1 on behalf of the victim.

2 2. The A victim impact statement shall:

3 ~~1. --Identify~~ include the identification of the victim of
4 the offense, and may include the following:

5 2. a. Itemize Itemization of any economic loss suffered by
6 the victim as a result of the offense. For purposes of this
7 paragraph, a pecuniary damages statement prepared by a county
8 attorney pursuant to section 910.3, may serve as the
9 itemization of economic loss.

10 3. b. Identify Identification of any physical injury
11 suffered by the victim as a result of the offense with detail
12 as to its seriousness and permanence.

13 4. c. Describe Description of any change in the victim's
14 personal welfare or familial relationships as a result of the
15 offense.

16 5. d. Describe Description of any request for
17 psychological services initiated by the victim or the victim's
18 family as a result of the offense.

19 6. e. Contain-any Any other information related to the
20 impact of the offense upon the victim.

21 Sec. 5. Section 910A.6, subsection 1, Code 1995, is
22 amended to read as follows:

23 1. The scheduled date, time, and place of trial, and the
24 cancellation or postponement of a court proceeding that was
25 expected to require the victim's attendance, in any criminal
26 case relating to the crime for which the person is a
27 registered victim.

28 Sec. 6. Section 910A.6, Code 1995, is amended by adding
29 the following new subsections:

30 NEW SUBSECTION. 6. Except where the prosecuting attorney
31 determines that disclosure of such information would
32 unreasonably interfere with the investigation, at the request
33 of the registered victim, notice of the status of the
34 investigation, to be provided by law enforcement authorities
35 investigating the case, until the alleged assailant is

1 apprehended or the investigation is closed.

2 NEW SUBSECTION. 7. The right to be informed of any plea
3 agreements related to the crime for which the person is a
4 registered victim.

5 NEW SUBSECTION. 8. The victim's right to make an oral
6 victim impact statement, in the presence of the defendant, as
7 well as notification of the time and place for such statement.

8 Sec. 7. Section 910A.8, Code 1995, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 4. The offender's transfer from local
11 custody to custody in another locality.

12 Sec. 8. Section 910A.9, Code 1995, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 6. The date on which the offender is
15 expected to be transferred from custody in one institution to
16 another, or to custody in an institution not under the control
17 of the department of corrections.

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SENATE AMENDMENT TO HOUSE FILE 2456

H-5649

1 Amend House File 2456, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 8 the
4 following:

5 "Sec. ____ . Section 904.108, subsection 6, Code
6 1995, is amended to read as follows:

7 6. The director or the director's designee, having
8 probable cause to believe that a person has escaped
9 from a state correctional institution or a person
10 released on work release has absconded from a work
11 release facility, ~~may-make~~ shall:

12 a. Make a complaint before a judge or magistrate.
13 If it is determined from the complaint or accompanying
14 affidavits that there is probable cause to believe
15 that the person has escaped from a state correctional
16 institution or absconded from a work release facility,
17 the judge or magistrate shall issue a warrant for the
18 arrest of the person.

19 b. Issue an announcement regarding the fact of the
20 escape or abscondence to the law enforcement
21 authorities in, and to the news media covering,
22 communities in a twenty-five mile radius of the point
23 of escape or abscondence."

24 2. Page 3, by striking lines 14 through 17 and
25 inserting the following:

26 "NEW SUBSECTION. 6. The transfer of custody of
27 the offender to another state or federal jurisdiction.

28 NEW SUBSECTION. 7. The procedures for contacting
29 the department to determine the offender's current
30 institution of residence."

31 3. By renumbering, relettering, or redesignating
32 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5649 FILED MARCH 26, 1996

*House concurred as amended 4/3/96
(p. 1331)*

HOUSE FILE 2456

H-5839

1 Amend the Senate amendment, H-5649, to House File
2 2456, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, line 9, by inserting after the word
5 "person" the following: "convicted of a forcible
6 felony who is".

7 2. Page 1, line 16, by inserting after the word
8 "or" the following: "that the forcible felon has".

9 3. Page 1, line 20, by inserting after the word
10 "escape" the following: "of the person".

A 11 4. Page 1, line 20, by striking the word
12 "abscondence" and inserting the following: "the
13 abscondence of the forcible felon".

14 5. Page 1, by inserting after line 23 the
15 following:

16 "____. Page 3, by inserting after line 7 the
17 following:

18 "Sec. ____ . Section 910A.7A, Code 1995, is amended
19 to read as follows:

20 910A.7A NOTIFICATION BY DEPARTMENT OF JUSTICE.

21 The department of justice shall notify a registered
22 victim of ~~all-dispositional-orders-of-a-case-currently~~
23 ~~on-appeal~~ the filing of an appeal, the expected date
24 of decision on the appeal as the information becomes
25 available to the department, all dispositional orders
B 26 in the appeal, and the outcome of the appeal of a case
27 in which the victim was involved."

28 6. By renumbering, relettering, or redesignating
29 and correcting internal references as necessary.

By HARRISON of Scott

H-5839 FILED APRIL 2, 1996

A. Adopted 4-3-96 (P. 1331)

B. Adopted " "

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2456

S-5648

1 Amend the Senate amendment, H-5649, to House File
2 2456, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, line 9, by inserting after the word
5 "person" the following: "convicted of a forcible
6 felony who is".

7 2. Page 1, line 16, by inserting after the word
8 "or" the following: "that the forcible felon has".

9 3. Page 1, line 20, by inserting after the word
10 "escape" the following: "of the person".

11 4. Page 1, line 20, by striking the word
12 "abscondence" and inserting the following: "the
13 abscondence of the forcible felon".

14 5. Page 1, by inserting after line 23 the
15 following:

16 "____. Page 3, by inserting after line 7 the
17 following:

18 "Sec. ____ . Section 910A.7A, Code 1995, is amended
19 to read as follows:

20 910A.7A NOTIFICATION BY DEPARTMENT OF JUSTICE.

21 The department of justice shall notify a registered
22 victim of ~~all-dispositional-orders-of-a-case-currently~~
23 ~~on-appeal~~ the filing of an appeal, the expected date
24 of decision on the appeal as the information becomes
25 available to the department, all dispositional orders
26 in the appeal, and the outcome of the appeal of a case
27 in which the victim was involved."

28 6. By renumbering, relettering, or redesignating
29 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5648 FILED APRIL 3, 1996

Senate concurred 4/8/96 (p. 1255)

HOUSE FILE 2456

S-5542

- 1 Amend House File 2456, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting after line 8 the
4 following:
5 "Sec. ____ . Section 904.108, subsection 6, Code
6 1995, is amended to read as follows:
7 6. The director or the director's designee, having
8 probable cause to believe that a person has escaped
9 from a state correctional institution or a person
10 released on work release has absconded from a work
11 release facility, ~~may make~~ shall:
12 a. Make a complaint before a judge or magistrate.
13 If it is determined from the complaint or accompanying
14 affidavits that there is probable cause to believe
15 that the person has escaped from a state correctional
16 institution or absconded from a work release facility,
17 the judge or magistrate shall issue a warrant for the
18 arrest of the person.
19 b. Issue an announcement regarding the fact of the
20 escape or abscondence to the law enforcement
21 authorities in, and to the news media covering,
22 communities in a twenty-five mile radius of the point
23 of escape or abscondence."
24 2. By renumbering as necessary.

By RANDAL J. GIANNETTO

S-5542 FILED MARCH 26, 1996
ADOPTED (P.1063)

HOUSE FILE 2456

S-5420

- 1 Amend House File 2456, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 3, by striking lines 14 through 17 and
4 inserting the following:
5 "NEW SUBSECTION. 6. The transfer of custody of
6 the offender to another state or federal jurisdiction.
7 "NEW SUBSECTION. 7. The procedures for contacting
8 the department to determine the offender's current
9 institution of residence."

By COMMITTEE ON JUDICIARY
RANDAL J. GIANNETTO, Chairperson

S-5420 FILED MARCH 19, 1996

adopted 3/26/96 (P.1063)

HOUSE FILE 2456

AN ACT

RELATING TO THE RIGHTS OF VICTIMS OF CRIMINAL ACTS.

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

Section 1. Section 331.653, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 65A. Carry out the duties imposed under section 910A.8.

Sec. 2. Section 331.756, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 83A. Carry out the duties imposed under sections 910A.2, 910A.5, and 910A.6.

Sec. 3. Section 904.108, subsection 6, Code 1995, is amended to read as follows:

6. The director or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person convicted of a forcible felony who is released on work release has absconded from a work release facility, ~~may make~~ shall:

a. Make a complaint before a judge or magistrate. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or that the forcible felon has absconded from a work release facility, the judge or magistrate shall issue a warrant for the arrest of the person.

b. Issue an announcement regarding the fact of the escape of the person or the abscondence of the forcible felon to the law enforcement authorities in, and to the news media covering, communities in a twenty-five mile radius of the point of escape or abscondence.

Sec. 4. Section 910A.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Victim impact statement" means a written or oral presentation to the court by the victim or the victim's representative that indicates the physical, emotional, financial, or other effects of the offense upon the victim.

Sec. 5. Section 910A.5, Code 1995, is amended to read as follows:

910A.5 VICTIM IMPACT STATEMENT.

1. A victim may present a victim impact statement to the court using one or more of the following methods:

a. A victim may file a signed victim impact statement with the county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court, a filed victim impact statement shall be provided to the court prior to sentencing.

~~The court shall consider a filed victim impact statement in determining the appropriate sentence and in entering any order of restitution to the victim pursuant to chapter 910.~~

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant.

c. If the victim is unable to make an oral or written statement because of the victim's age, or mental, emotional, or physical incapacity, the victim's attorney or a designated representative shall have the opportunity to make a statement on behalf of the victim.

2. The A victim impact statement shall:

~~1. identify~~ include the identification of the victim of the offense, and may include the following:

~~2. a. Itemize~~ Itemization of any economic loss suffered by the victim as a result of the offense. For purposes of this paragraph, a pecuniary damages statement prepared by a county attorney pursuant to section 910.3, may serve as the itemization of economic loss.

~~3. b. Identify~~ Identification of any physical injury suffered by the victim as a result of the offense with detail as to its seriousness and permanence.

4- c. Describe Description of any change in the victim's personal welfare or familial relationships as a result of the offense.

5- d. Describe Description of any request for psychological services initiated by the victim or the victim's family as a result of the offense.

6- e. Contain-any Any other information related to the impact of the offense upon the victim.

Sec. 6. Section 910A.6, subsection 1, Code 1995, is amended to read as follows:

1. The scheduled date, time, and place of trial, and the cancellation or postponement of a court proceeding that was expected to require the victim's attendance, in any criminal case relating to the crime for which the person is a registered victim.

Sec. 7. Section 910A.6, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. Except where the prosecuting attorney determines that disclosure of such information would unreasonably interfere with the investigation, at the request of the registered victim, notice of the status of the investigation, to be provided by law enforcement authorities investigating the case, until the alleged assailant is apprehended or the investigation is closed.

NEW SUBSECTION. 7. The right to be informed of any plea agreements related to the crime for which the person is a registered victim.

NEW SUBSECTION. 8. The victim's right to make an oral victim impact statement, in the presence of the defendant, as well as notification of the time and place for such statement.

Sec. 8. Section 910A.7A, Code 1995, is amended to read as follows:

910A.7A NOTIFICATION BY DEPARTMENT OF JUSTICE.

The department of justice shall notify a registered victim of all-dispositional-orders-of-a-case-currently-on-appeal the filing of an appeal, the expected date of decision on the appeal as the information becomes available to the department,

all dispositional orders in the appeal, and the outcome of the appeal of a case in which the victim was involved.

Sec. 9. Section 910A.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The offender's transfer from local custody to custody in another locality.

Sec. 10. Section 910A.9, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The transfer of custody of the offender to another state or federal jurisdiction.

NEW SUBSECTION. 7. The procedures for contacting the department to determine the offender's current institution of residence.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2456, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 15, 1996

TERRY E. BRANSTAD
Governor