

3/28/95 Referred to Judiciary

FILED MAR 20 1995

SENATE FILE 418  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 269)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act to permit the imposition of a one-year jail term as part  
2 of the sentence of a person who is convicted of an aggravated  
3 misdemeanor or greater offense, providing for payment of costs  
4 by the state, and providing for partial payment by the  
5 offender if work release is permitted.

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

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S.F. 418

1 Section 1. Section 902.3, Code 1995, is amended to read as  
2 follows:

3 902.3 INDETERMINATE-SENTENCE FELONY SENTENCING.

4 1. When Except as otherwise provided in subsection 2, when  
5 a judgment of conviction of a felony other than a class "A"  
6 felony is entered against a person, the court, in imposing a  
7 sentence of confinement, shall commit the person into the  
8 custody of the director of the Iowa department of corrections  
9 for an indeterminate term, the maximum length of which shall  
10 not exceed the limits as fixed by section 707.3 or section  
11 902.9 nor shall the term be less than the minimum term imposed  
12 by law, if a minimum sentence is provided.

13 2. However, -the The court may sentence a person convicted  
14 of a class-"D" felony for as follows:

15 a. For a conviction of a class "D" felony violation of  
16 section 321J.2 to imprisonment for up to one year in a county  
17 jail under section 902.9, subsection 4, and the person shall  
18 not be under the custody of the director of the Iowa  
19 department of corrections.

20 b. For a conviction of a felony other than a class "A"  
21 felony, in lieu of one year of the total sentence of  
22 imprisonment, to imprisonment for up to one year in a county  
23 jail under section 902.9, subsection 4. If the court  
24 sentences the person to up to one year in a county jail, the  
25 court may require that all or a portion of the jail sentence  
26 be served, or suspend the year in jail along with the  
27 remaining balance of the term of imprisonment in an  
28 institution under the control of the department of  
29 corrections. A person sentenced to up to one year in a county  
30 jail shall not be under the custody of the director of the  
31 Iowa department of corrections, unless the person's probation  
32 is revoked and the person's entire sentence is imposed.

33 Sec. 2. NEW SECTION. 902.12 PROVIDING PLACE OF  
34 CONFINEMENT.

35 A person convicted of a felony and sentenced to confinement

1 for a period of one year or less shall be confined in a place  
2 to be furnished by the county where the conviction was had.  
3 The costs of the person's confinement shall be paid by the  
4 state. However, if a person's sentence permits the person to  
5 be released for purposes of employment, the court shall order  
6 that the person pay the amount of ten dollars per day, for  
7 each day of confinement in jail, to the county in which the  
8 person is confined. The amount paid by the person shall be  
9 deducted from the total amount to be paid by the state to the  
10 county.

11 Sec. 3. Section 903.1, subsection 2, Code 1995, is amended  
12 to read as follows:

13 2. When a person is convicted of an aggravated  
14 misdemeanor, and a specific penalty is not provided for, the  
15 maximum penalty shall be imprisonment not to exceed two years.  
16 There shall be a fine of at least five hundred dollars but not  
17 to exceed five thousand dollars. When a judgment of  
18 conviction of an aggravated misdemeanor is entered against any  
19 person and the court imposes a sentence of confinement for a  
20 period of more than one year the term shall be an  
21 indeterminate term. However, the court may sentence the  
22 defendant to serve up to one year of the sentence in the  
23 county jail and suspend the balance of the term imposed. If  
24 the person is ordered to serve up to one year in jail the  
25 costs of the person's confinement shall be borne by the state.  
26 However, a person sentenced to up to one year in a county jail  
27 shall not be under the custody of the director of the Iowa  
28 department of corrections, unless the person's probation is  
29 revoked and the person's entire sentence is imposed. If the  
30 terms of a person's confinement include a provision for  
31 release for purposes of employment, the court shall order the  
32 person to pay ten dollars per day for every day of  
33 confinement, which shall be deducted from any amounts owed the  
34 county by the state.

35 Sec. 4. Section 907.3, subsection 3, Code 1995, is amended

1 to read as follows:

2 3. By record entry at the time of or after sentencing, the  
3 court may suspend the sentence and place the defendant on  
4 probation upon such terms and conditions as it may require  
5 including commitment to an alternate jail facility or a  
6 community correctional residential treatment facility for a  
7 specific number of days to be followed by a term of probation  
8 as specified in section 907.7. A person so committed ~~who has~~  
9 whose probation is revoked shall be given credit for such time  
10 served. By record entry at the time of or after sentencing  
11 for a felony other than a class "A" felony, or an aggravated  
12 misdemeanor, the court may sentence the defendant to serve up  
13 to one year of the sentence in the county jail and suspend the  
14 balance of the term imposed, as provided in section 902.3,  
15 subsection 2, paragraph "b", or section 903.1, subsection 2.  
16 However, the court shall not suspend the minimum term of two  
17 days imposed pursuant to section 708.2A, and the court shall  
18 not suspend a sentence imposed pursuant to section 236.8 or  
19 236.14 for contempt.

20 EXPLANATION

21 This bill permits a court to sentence a person convicted of  
22 a crime which is classified as an aggravated misdemeanor  
23 through a class "B" felony to up to one year in a county jail  
24 as part of the person's sentence. All or a portion of the  
25 year and any balance of the remaining term of confinement  
26 imposed by the court may be suspended. If a person is serving  
27 a sentence of confinement in a county jail, the person is not  
28 in the custody of the director of the department of  
29 corrections, unless the person's probation is revoked and the  
30 person's entire sentence is imposed. The costs of the  
31 person's confinement in the county jail shall be borne by the  
32 state. If the terms of a person's confinement include a  
33 provision for release for purposes of employment, the court is  
34 to order the person to pay \$10 per day for every day of  
35 confinement to the county, which shall be deducted from any

- 1 amounts owed the county by the state.
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**SENATE FILE 418  
FISCAL NOTE**

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The estimate for Senate File 418 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 418 permits the Court to sentence offenders up to 90 days in a county jail if convicted of an aggravated misdemeanor through a Class B felony. If the offender has committed an aggravated misdemeanor, the State bears the costs of confinement. Otherwise, the county bears the costs of confinement. If the person participates in jail work release, then the person is to pay \$10 per day of confinement. This payment is deducted from the amount owed to the county by the State.

**Assumptions:**

1. A majority of judges would use the option of sentencing offenders to jail before probation if the option were available (based on a 1992 survey by the Criminal and Juvenile Justice Planning Division). It is not known how frequently this option would be applied or to which types of offenses it would be applied.
2. The average cost to the Department of Corrections for confining a parole or work release violator in jail is \$51.07 per day. It is anticipated that the State would pay the same rate for aggravated misdemeanants confined in jail.
3. The budgeted marginal cost for a prison inmate is \$10 per day.

**Correctional Impact:**

There is insufficient information to estimate the number of offenders that will be sentenced to jail. Likewise, there is no information on how many prisoners would participate in the jail work release programs.

**Fiscal Impact:**

Each aggravated misdemeanor sentenced to jail as a result of this Bill will cost the State \$51 per day. If the offender would have gone to prison for the same amount of time, such as for shock probation, the net cost to the State would be \$41 per day. If this person were to participate in a jail work release program, then the net cost to the State would be \$31 per day.

There is insufficient information to estimate the costs to the counties.

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**Sources:**

Criminal and Juvenile Justice Planning Division, Department of Human Services  
Department of Corrections. (LSB 2062sv, MDF)

FILED MARCH 23, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

Giannetto  
Vilsack  
Fraise  
McKean  
Maddox

SSB 269

Judiciary

Succeeded By  
SF/HF 418  
SENATE FILE  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON GIANNETTO)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
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