

FEB 17 1998

JUDICIARY

HOUSE FILE 2305
BY TYRRELL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to orders for confinement of criminal defendants
2 in jails in counties other than the county in which the person
3 was arrested or convicted.

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

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF 2305

1 Section 1. Section 804.22, subsection 2, Code 1997, is
2 amended to read as follows:

3 2. If the magistrate believes from such complaint that the
4 offense charged is triable in another court, the magistrate
5 shall by written order, commit the person arrested to a peace
6 officer, to be taken before the appropriate magistrate in the
7 district in which the offense is triable, and shall fix the
8 amount of bail or other conditions of release which the person
9 arrested may give for the person's appearance at the other
10 court. The magistrate's order committing the person to a
11 peace officer shall not provide for the confinement of the
12 person in a county other than the county of arrest unless the
13 magistrate first notifies the sheriff of the county of arrest
14 and the sheriff of the other county and determines that the
15 other county has sufficient space to accommodate the person.
16 If the sheriff of the county of arrest objects or the sheriff
17 of the other county states that insufficient space is
18 available, the magistrate shall not order the defendant to be
19 confined in that other county.

20 Sec. 2. Section 901.7, Code 1997, is amended to read as
21 follows:

22 901.7 COMMITMENT TO CUSTODY.

23 In imposing a sentence of confinement for more than one
24 year, the court shall commit the defendant to the custody of
25 the director of the Iowa department of corrections. Upon
26 entry of judgment and sentence, the clerk of the district
27 court immediately shall notify the director of the commitment.
28 The court shall make an order as appropriate for the temporary
29 custody of the defendant pending the defendant's transfer to
30 the custody of the director. If the order for temporary
31 custody provides for confinement of the defendant in a county
32 other than the county of conviction, the court shall notify
33 the sheriff of the county in which the defendant was convicted
34 and the sheriff of the other county and determine whether the
35 other county has sufficient space to accommodate the person.

1 If the sheriff of the county of conviction objects or the
2 sheriff of the other county states that insufficient space is
3 available, the court shall not order the defendant to be
4 confined in that other county. The court shall order the
5 county where a person was convicted to pay the cost of
6 temporarily confining the person and of transporting the
7 person to the state institution where the person is to be
8 confined in execution of the judgment. The order shall
9 require that a person transported to a state institution
10 pursuant to this section shall be accompanied by a person of
11 the same sex.

12 Sec. 3. Section 903.4, Code 1997, is amended to read as
13 follows:

14 903.4 PROVIDING PLACE OF CONFINEMENT.

15 All persons sentenced to confinement for a period of one
16 year or less shall be confined in a place to be furnished by
17 the county where the conviction was had unless the person is
18 presently committed to the custody of the director of the Iowa
19 department of corrections, in which case the provisions of
20 section 901.8 apply. The court shall not order confinement of
21 a defendant for a period of one year or less in a county other
22 than the county of conviction unless the court first notifies
23 both the sheriff of the county of conviction and the sheriff
24 of the other county and determines whether the other county
25 has sufficient space to accommodate the person. If the
26 sheriff of the county of conviction objects or the sheriff of
27 the other county states that insufficient space is available,
28 the court shall not order the defendant to be confined in that
29 county. All persons sentenced to confinement for a period of
30 more than one year shall be committed to the custody of the
31 director of the Iowa department of corrections to be confined
32 in a place to be designated by the director and the cost of
33 the confinement shall be borne by the state. The director may
34 contract with local governmental units for the use of
35 detention or correctional facilities maintained by the units

1 for the confinement of such persons.

2 EXPLANATION

3 This bill provides that before a criminal defendant can be
4 confined in a jail in a county other than the county in which
5 the person was arrested or convicted, the court must notify
6 the sheriff of the county in which the person is arrested or
7 convicted and the sheriff of the other county, and determine
8 if sufficient space is available to accommodate the person.
9 If it is determined that sufficient space is not available in
10 the other county or the sheriff of the county in which the
11 person is arrested or convicted objects, the court is not to
12 order the defendant confined in that other county.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35