

JAN 14 1997  
JUDICIARY

HOUSE FILE 24  
BY VANDE HOEF

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

**A BILL FOR**

1 An Act relating to arrests of persons who have been placed on  
2 probation for voluntary absence from a correctional facility.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*HF 24*

1 Section 1. Section 908.11, Code 1997, is amended to read  
2 as follows:

3 908.11 VIOLATION OF PROBATION.

4 1. A probation officer or the judicial district department  
5 of correctional services having probable cause to believe that  
6 any person released on probation has violated the conditions  
7 of probation shall proceed by arrest or summons as in the case  
8 of a parole violation.

9 2. The functions of the liaison officer and the board of  
10 parole shall be performed by the judge or magistrate who  
11 placed the alleged violator on probation if that judge or  
12 magistrate is available, otherwise by another judge or  
13 magistrate who would have had jurisdiction to try the original  
14 offense.

15 3. If the probation officer proceeds by arrest, any  
16 magistrate may receive the complaint, issue an arrest warrant,  
17 or conduct the initial appearance and probable cause hearing  
18 if it is not convenient for the judge who placed the alleged  
19 violator on probation to do so. If, however, the grounds for  
20 probable cause to believe a probation violation has occurred  
21 are allegations that the person has committed a violation of  
22 section 719.4 by being voluntarily absent from a correctional  
23 facility, the probation officer may arrest the person without  
24 an arrest warrant. If a person who has been released on  
25 probation is arrested without an arrest warrant, the person  
26 shall be brought before a magistrate without unnecessary delay  
27 for an initial appearance.

28 4. The initial appearance, probable cause hearing, and  
29 probation revocation hearing, or any of them, may at the  
30 discretion of the court be merged into a single hearing when  
31 it appears that the alleged violator will not be prejudiced  
32 thereby. If the violation is established, the court may  
33 continue the probation with or without an alteration of the  
34 conditions of probation. If the defendant is an adult the  
35 court may hold the defendant in contempt of court and sentence

1 the defendant to a jail term while continuing the probation,  
2 order the defendant to be placed in a violator facility  
3 established pursuant to section 904.207 while continuing the  
4 probation, or revoke the probation and require the defendant  
5 to serve the sentence imposed or any lesser sentence, and, if  
6 imposition of sentence was deferred, may impose any sentence  
7 which might originally have been imposed.

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## EXPLANATION

9 This bill provides that if the grounds for probable cause  
10 for a probation violation are that the probationer knowingly  
11 and voluntarily is absent from a correctional facility, the  
12 probation officer may arrest the person without first seeking  
13 a warrant for arrest from a judge or magistrate. Currently, a  
14 probation officer must seek a warrant for the arrest of any  
15 suspected violators of probation before the alleged violator  
16 can be arrested and brought before the court for hearing. All  
17 alleged violators who are arrested under the provisions of the  
18 bill are to be brought before a magistrate for an initial  
19 appearance without unnecessary delay by the officer making the  
20 arrest.

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