

4/7/97 Referred to Judiciary

MAR 11 1997
Place On Calendar

HOUSE FILE 546
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 76)

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

A BILL FOR

1 An Act relating to work programs for inmates and criminal
2 defendants.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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HOUSE FILE 546

H-1170

1 Amend House File 546 as follows:
2 1. Page 1, by inserting after line 27, the
3 following:
4 "Sec. ____ . Section 669.11, Code 1997, is amended
5 by adding the following new unnumbered paragraph:
6 NEW UNNUMBERED PARAGRAPH. If an award which is
7 paid under this section pertains to the actions of a
8 person who is providing supervision, security, or
9 transportation for inmates or criminal defendants who
10 are providing services pursuant to an agreement under
11 section 904.703, and the person is not a person who is
12 employed in a direct capacity by the state, the
13 person's direct employer shall reimburse the state for
14 the amount of the award."
15 2. By renumbering as necessary.

HF 546

By KREIMAN of Davis

H-1170 FILED MARCH 13, 1997

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1 Section 1. Section 669.2, subsection 4, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 "Employee of the state" includes any one or more officers,
4 agents, or employees of the state or any state agency,
5 including members of the general assembly, and persons acting
6 on behalf of the state or any state agency in any official
7 capacity, temporarily or permanently in the service of the
8 state of Iowa, whether with or without compensation, but does
9 not include a contractor doing business with the state.
10 Professional personnel, including physicians, osteopathic
11 physicians and surgeons, osteopathic physicians, optometrists,
12 dentists, nurses, physician assistants, and other medical
13 personnel, who render services to patients or inmates of state
14 institutions under the jurisdiction of the department of human
15 services, and employees of the commission of veterans affairs,
16 or the Iowa department of corrections are to be considered
17 employees of the state, whether the personnel are employed on
18 a full-time basis or render services on a part-time basis on a
19 fee schedule or other arrangement. Criminal defendants while
20 performing unpaid community service ordered by the district
21 court, board of parole, or judicial district department of
22 correctional services, ~~or-an-inmate~~ inmates providing services
23 pursuant to ~~a-chapter-28E~~ an agreement entered into pursuant
24 to section 904.703, and persons providing supervision,
25 security, or transportation for inmates or criminal defendants
26 who are providing the services, are to be considered employees
27 of the state.

28 Sec. 2. Section 904.703, unnumbered paragraph 1, Code
29 1997, is amended to read as follows:

30 Inmates shall work on state account in the maintenance of
31 state institutions, in the erection, repair, authorized
32 demolition, or operation of buildings and works used in
33 connection with the institutions, and in industries
34 established and maintained in connection with the institutions
35 by the director. The director shall encourage the making of

1 agreements, including agreements under chapter 28E, with
2 departments and agencies of the state or its political
3 subdivisions to provide products or services under an inmate
4 work program to the departments and, agencies, and political
5 subdivisions. The director may implement an inmate work
6 program for trustworthy inmates of state correctional
7 institutions, under proper supervision, whether at work
8 centers located outside the state correctional institutions or
9 in construction or maintenance work at public or charitable
10 facilities and for other agencies of state, county, or local
11 government. The supervision, security, and transportation of,
12 and allowances paid to inmates used in public service projects
13 shall be provided pursuant to agreements made by the director
14 and the agency for which the work is done. Housing and
15 maintenance shall also be provided pursuant to the agreement
16 unless the inmate is housed and maintained in the correctional
17 facility. All such work, including but not limited to that
18 provided in this section, shall have as its primary purpose
19 the development of attitudes, skills, and habit patterns which
20 are conducive to inmate rehabilitation. The director may
21 adopt rules allowing inmates participating in an inmate work
22 program to receive educational or vocational training outside
23 the state correctional institutions and away from the work
24 centers or public or charitable facilities used under a
25 program.

26 Sec. 3. Section 904.703, unnumbered paragraph 3, Code
27 1997, is amended by striking the paragraph.

28 EXPLANATION

29 This bill extends the provisions of the state tort claims
30 Act to cover persons who supervise, provide security for, or
31 transport criminal defendants and inmates who are providing
32 services either pursuant to an order of the court, the board
33 of parole, or a judicial district department of correctional
34 services or pursuant to an agreement for inmate services. The
35 state tort claims Act contains specific procedures for the

1 recovery of claims for damages against the state for negligent
2 acts or omissions of employees of the state, which must be
3 followed in order for a person to receive compensation for
4 those damages.

5 This bill also includes chapter 28E agreements for inmate
6 services to departments, state agencies, and political
7 subdivisions of the state under general provisions governing
8 inmate work contracts. Currently, chapter 28E agreements with
9 county boards of supervisors or county conservation boards for
10 inmate services for environmental maintenance are governed
11 separately from other agreements. Under those provisions,
12 county boards of supervisors or conservation boards are
13 responsible for reimbursing the department of corrections for
14 allowances paid to inmates for the services, and the
15 supervision, security, and transportation of inmates is
16 provided by the department of corrections. The changes made
17 under the bill would delete the statutory requirements and
18 bring the issues of allowances, supervision, security, and
19 transportation under the terms of the inmate service
20 agreements.

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*Sukup, Chv.
Churchill
Kellman*

HSB 76
JUDICIARY
Succeeded By
SF (HF) 546

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
CORRECTIONS BILL)

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

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LSB1295DP

Proposed Legislation

28E AGREEMENTS: INMATE WORK PROGRAMS

RATIONALE FOR CHANGE: From Department of Corrections

The existing statute creates some confusion regarding responsibility for reimbursement for services performed as well as for security and transportation. The proposed amendment can essentially be viewed as a "clean up" designed to clarify roles and bring uniformity to both statute and practice. The amendment assures that inmate work outside of the department of corrections will be governed by an agreement with the organization receiving services. The agreement will cover the issues of supervision, security, transportation, housing and allowances.

Proposed Legislation

WORK AGREEMENTS: LIABILITY

RATIONALE FOR CHANGE: From Department of Corrections

The changes are designed to eliminate concerns expressed by our legal council as to whether the state's liability coverage extends to persons who may find themselves in a supervisory role with inmates on work crews. The objective is to eliminate roadblocks and legal concerns that may limit work opportunities for inmates.