

*Sunderburch, chair*  
*Kettering*  
*Bell*

*HSB 710*

JUDICIARY

SF

*02519*

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

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the department of corrections by providing for  
2 the establishment of reserve peace officers by judicial  
3 district departments of correctional services, for the  
4 transfer of patients to the Iowa medical and classification  
5 center and for the liability of counties for their costs of  
6 treatment, for the transcription and recording of testimony  
7 for certain investigations conducted by the department of  
8 corrections, for the submission of presentence investigation  
9 reports to the department, for the release of certain family  
10 and personal history, for lease agreements between the  
11 department and employers to provide work for inmates, for the  
12 authority to establish and distribute moneys from interest-  
13 bearing accounts for inmates, and for the repeal of the sixth  
14 judicial district pilot project concerning probation  
15 revocation hearings, and providing an effective date.

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

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1 Section 1. Section 80D.1, Code 1999, is amended to read as  
2 follows:

3 80D.1 ESTABLISHMENT OF A FORCE OF RESERVE PEACE OFFICERS.

4 The governing body of a city, a county, or the state of  
5 Iowa, or a judicial district department of correctional  
6 services may provide, either separately or collectively  
7 through a chapter 28E agreement, for the establishment of a  
8 force of reserve peace officers, and may limit the size of the  
9 reserve force. In the case of the state, the department of  
10 public safety shall act as the governing body.

11 This chapter constitutes the only procedure for appointing  
12 reserve peace officers.

13 Sec. 2. Section 80D.4, Code 1999, is amended to read as  
14 follows:

15 80D.4 TRAINING.

16 Training for individuals appointed as reserve peace  
17 officers shall be provided by that law enforcement agency, but  
18 may be obtained in a community college or other facility  
19 selected by the individual and approved by the law enforcement  
20 agency. Upon satisfactory completion of training, the chief  
21 of police, sheriff, or commissioner of public safety, or  
22 director of the judicial district department of correctional  
23 services shall certify the individual as a reserve peace  
24 officer.

25 Sec. 3. Section 80D.6, Code 1999, is amended to read as  
26 follows:

27 80D.6 STATUS OF RESERVE PEACE OFFICERS.

28 Reserve peace officers shall serve as peace officers on the  
29 orders and at the discretion of the chief of police, sheriff,  
30 or commissioner of public safety or the commissioner's  
31 designee, or director of the judicial district department of  
32 correctional services or the director's designee, as the case  
33 may be.

34 While in the actual performance of official duties, reserve  
35 peace officers shall be vested with the same rights,

1 privileges, obligations, and duties as any other peace  
2 officers.

3 Sec. 4. Section 80D.7, Code 1999, is amended to read as  
4 follows:

5 80D.7 CARRYING WEAPONS.

6 A member of a reserve force shall not carry a weapon in the  
7 line of duty until the member has been approved by the  
8 governing body and certified by the Iowa law enforcement  
9 academy council to carry weapons. After approval and  
10 certification, a reserve peace officer may carry a weapon in  
11 the line of duty only when authorized by the chief of police,  
12 sheriff, or commissioner of public safety or the  
13 commissioner's designee, or director of the judicial district  
14 department of correctional services or the director's  
15 designee, as the case may be.

16 Sec. 5. Section 80D.9, Code 1999, is amended to read as  
17 follows:

18 80D.9 SUPERVISION OF RESERVE PEACE OFFICERS.

19 Reserve peace officers shall be subordinate to regular  
20 peace officers, shall not serve as peace officers unless under  
21 the direction of regular peace officers, and shall wear a  
22 uniform prescribed by the chief of police, sheriff, or  
23 commissioner of public safety, or director of the judicial  
24 district department of correctional services unless that  
25 superior officer designates alternate apparel for use when  
26 engaged in assignments involving special investigation, civil  
27 process, court duties, jail duties and the handling of mental  
28 patients. The reserve peace officer shall not wear an  
29 insignia of rank. Each department for which a reserve force  
30 is established shall appoint a regular force peace officer as  
31 the reserve force co-ordinating and supervising officer. That  
32 regular peace officer shall report directly to the chief of  
33 police, sheriff, or commissioner of public safety or the  
34 commissioner's designee, or director of the judicial district  
35 department of correctional services or the director's

1 designee, as the case may be.

2 Sec. 6. Section 80D.11, Code 1999, is amended to read as  
3 follows:

4 80D.11 EMPLOYEE -- PAY.

5 While performing official duties, each reserve peace  
6 officer shall be considered an employee of the governing body  
7 which the officer represents and shall be paid a minimum of  
8 one dollar per year. The governing body of a city, a county,  
9 or the state, or a judicial district department of  
10 correctional services may provide additional monetary  
11 assistance for the purchase and maintenance of uniforms and  
12 equipment used by reserve peace officers.

13 Sec. 7. Section 222.60, Code 1999, is amended to read as  
14 follows:

15 222.60 COSTS PAID BY COUNTY OR STATE -- DIAGNOSIS AND  
16 EVALUATION.

17 1. All necessary and legal expenses for the cost of  
18 admission or commitment, including expenses incurred pursuant  
19 to section 812.5, or for the treatment, training, instruction,  
20 care, habilitation, support and transportation of persons with  
21 mental retardation, as provided for in the county management  
22 plan provisions implemented pursuant to section 331.439,  
23 subsection 1, in a state hospital-school, or in a special  
24 unit, or any public or private facility within or without the  
25 state, approved by the director of the department of human  
26 services, shall be paid by either a county or by the state as  
27 follows:

28 1- a. The county in which such person has legal settlement  
29 as defined in section 252.16.

30 b. The county in which such person has been charged with a  
31 criminal offense if the person is transferred or referred to a  
32 state hospital-school for any of the following:

33 (1) A diagnosis or recommendation as part of the pretrial  
34 or presentence procedure.

35 (2) A determination of mental competency or, pursuant to

1 Iowa rule of criminal procedure 21, a placement of a  
2 defendant.

3 (3) A determination of competency to stand trial, a  
4 determination of a defendant's dangerousness, or a commitment  
5 as mentally incompetent to stand trial pursuant to section  
6 812.4.

7 (4) A diagnosis, evaluation, or treatment for a prisoner  
8 transferred from a county or city jail.

9 2- c. The state when such person has no legal settlement  
10 or when such settlement is unknown.

11 2. Prior to a county of legal settlement approving the  
12 payment of expenses for a person under this section to which  
13 subsection 1, paragraph "a", applies, the county may require  
14 that the person be diagnosed to determine if the person has  
15 mental retardation or that the person be evaluated to  
16 determine the appropriate level of services required to meet  
17 the person's needs relating to mental retardation. The  
18 diagnosis and the evaluation may be performed concurrently and  
19 shall be performed by an individual or individuals approved by  
20 the county who are qualified to perform the diagnosis or the  
21 evaluation. Following the initial approval for payment of  
22 expenses, the county of legal settlement may require that an  
23 evaluation be performed at reasonable time periods. The cost  
24 of a county-required diagnosis and an evaluation is at the  
25 county's expense. In the case of a person without legal  
26 settlement or whose legal settlement is unknown, the state may  
27 apply the diagnosis and evaluation provisions of this  
28 paragraph at the state's expense. A diagnosis or an  
29 evaluation under this section of a person to which subsection  
30 1, paragraph "a", applies, may be part of a county's single  
31 entry point process under section 331.440, provided that a  
32 diagnosis is performed only by an individual qualified as  
33 provided in this section. However, the single entry point  
34 process is not applicable and a court is not required to seek  
35 authorization through the single entry point process prior to

1 transferring or referring a person to a state hospital-school  
2 for any reason provided in subsection 1, paragraph "b".

3     3. A diagnosis of mental retardation under this section  
4 shall be made only when the onset of the person's condition  
5 was prior to the age of eighteen years and shall be based on  
6 an assessment of the person's intellectual functioning and  
7 level of adaptive skills. The diagnosis shall be made by an  
8 individual who is a psychologist or psychiatrist who is  
9 professionally trained to administer the tests required to  
10 assess intellectual functioning and to evaluate a person's  
11 adaptive skills.

12     4. A diagnosis of mental retardation shall be made in  
13 accordance with the criteria provided in the diagnostic and  
14 statistical manual of mental disorders, fourth edition,  
15 published by the American psychiatric association.

16     Sec. 8. Section 226.30, Code 1999, is amended to read as  
17 follows:

18     226.30 TRANSFER OF DANGEROUS PATIENTS.

19     When a patient of any hospital for persons with mental  
20 illness becomes incorrigible, and unmanageable to such an  
21 extent that the patient is dangerous to the safety of others  
22 in the hospital, the administrator, following review and  
23 approval of the director of the department of corrections, may  
24 apply in writing to the district court or to any judge  
25 ~~thereof~~, of the county in which the hospital is situated, for  
26 an order to transfer the patient to the Iowa medical and  
27 classification center and if the order is granted the patient  
28 shall be so transferred. The county attorney of the county  
29 shall appear in support of the application on behalf of the  
30 administrator.

31     Sec. 9. Section 230.1, Code Supplement 1999, is amended to  
32 read as follows:

33     230.1 LIABILITY OF COUNTY AND STATE.

34     1. The necessary and legal costs and expenses attending  
35 the taking into custody, care, investigation, admission,

1 commitment, including civil commitment pursuant to section  
2 812.5, and support of a person with mental illness admitted or  
3 committed to a state hospital shall be paid by a county or by  
4 the state as follows:

5 a. By the county in which such person has a legal  
6 settlement, if the person is eighteen years of age or older.

7 b. By the county in which such person has been charged  
8 with a criminal offense if the person is transferred or  
9 referred to a state hospital for any of the following:

10 (1) A psychosocial diagnosis or recommendation as part of  
11 the pretrial or presentence procedure.

12 (2) A determination of mental competency or, pursuant to  
13 Iowa rule of criminal procedure 21, a placement of a  
14 defendant.

15 (3) A determination of competency to stand trial, a  
16 determination of a defendant's dangerousness, or a commitment  
17 as mentally incompetent to stand trial pursuant to section  
18 812.4.

19 (4) A diagnosis, evaluation, or treatment for mental  
20 illness for a prisoner transferred from a county or city jail.

21 b. c. By the state when such person has no legal  
22 settlement in this state, when the person's legal settlement  
23 is unknown, or if the person is under eighteen years of age.

24 2. The legal settlement of any person found mentally ill  
25 who is a patient of any state institution shall be that  
26 existing at the time of admission thereto.

27 3. A county of legal settlement is not liable for costs  
28 and expenses associated with a person with mental illness to  
29 which subsection 1, paragraph "a", applies, unless the costs  
30 and expenses are for services and other support authorized for  
31 the person through the single entry point process. However,  
32 the single entry point process is not applicable and a court  
33 is not required to seek authorization through the single entry  
34 point process prior to ordering an evaluation of,

35 transferring, or referring a person to a state hospital for

1 any reason provided in subsection 1, paragraph "b". For the  
2 purposes of this chapter, "single entry point process" means  
3 the same as defined in section 331.440.

4 Sec. 10. Section 904.201, subsection 8, Code 1999, is  
5 amended to read as follows:

6 8. ~~Chapter-230-governs-the-determination-of~~ The costs and  
7 charges for the care and treatment of persons with mental  
8 illness admitted to the forensic psychiatric hospital pursuant  
9 to subsection 3, shall be paid by the county in which the  
10 criminal charges are filed, except that charges for the care  
11 and treatment of any person transferred to the forensic  
12 psychiatric hospital from an adult correctional institution or  
13 from a state training school shall be paid entirely from state  
14 funds. The court ordering a person to the forensic  
15 psychiatric hospital for care and treatment shall not be  
16 subject to the single entry point process under section  
17 331.440. Charges for all other persons at the forensic  
18 psychiatric hospital shall be billed to the respective  
19 counties at the same ratio as for patients at state mental  
20 health institutes under section 230.20. The Iowa medical and  
21 classification center shall bill the proper county directly.

22 Sec. 11. Section 904.202, Code 1999, is amended to read as  
23 follows:

24 904.202 INTAKE AND CLASSIFICATION CENTER.

25 The director may provide facilities and personnel for a  
26 diagnostic intake and classification center. The work of the  
27 center shall include a scientific study of each inmate, the  
28 inmate's career and life history, the causes of the inmate's  
29 criminal acts and recommendations for the inmate's custody,  
30 care, training, employment, and counseling with a view to  
31 rehabilitation and to the protection of society. To  
32 facilitate the work of the center and to aid in the  
33 rehabilitation of the inmates, the trial judge, prosecuting  
34 attorney, and presentence investigators shall furnish the  
35 director upon request with any previously authorized



1 presentence investigation report and a full statement of facts  
2 and circumstances attending the commission of the offense so  
3 far as known or believed by them. If the department develops  
4 and utilizes an inmate classification system, it must, within  
5 a reasonable time, present evidence from independent experts  
6 as to the effectiveness and validity of the classification  
7 system.

8 Sec. 12. Section 904.405, Code 1999, is amended to read as  
9 follows:

10 904.405 TRANSCRIPT OF TESTIMONY.

11 The director shall cause the testimony taken at the  
12 investigation to be ~~transcribed and~~ recorded. The recording  
13 of the testimony shall not be transcribed unless the testimony  
14 is part of a case that is appealed or an interested party  
15 requests a transcript and pays the cost of preparing the  
16 transcript. The recording of the testimony, or the  
17 transcription thereof, shall be filed and maintained in the  
18 director's office at the seat of government ~~within ten days~~  
19 ~~after the testimony is taken, or as soon as practicable, and~~  
20 ~~when filed the testimony shall be open for the inspection of~~  
21 ~~any person~~ for at least five years from the date the testimony  
22 is taken or the date of a final decision in a case involving  
23 the testimony, whichever is later.

24 Sec. 13. Section 904.508, subsections 1 and 2, Code 1999,  
25 are amended to read as follows:

26 1. The superintendent of each institution shall receive  
27 and care for any property an inmate may possess on the  
28 inmate's person upon entering the institution, and on the  
29 discharge of the inmate, return the property to the inmate or  
30 the inmate's legal representatives, unless the property has  
31 been previously disposed of according to the inmate's written  
32 designation or policies prescribed by the board. ~~The~~  
33 ~~superintendent may place an inmate's money at interest,~~  
34 ~~keeping an account of the money and returning the remaining~~  
35 ~~money upon discharge.~~

1     2. The director shall establish and maintain an inmate  
2 savings fund in an ~~interest-bearing~~ account for the deposit of  
3 all or part of an inmate's allowances, as provided in section  
4 904.702. All or part of an inmate's allowances shall be  
5 deposited into the savings fund, until the inmate's deposit is  
6 equal to the amount due the inmate upon discharge, parole, or  
7 placement on work release, as provided in section 906.9. If  
8 an inmate's deposits equal this amount, the inmate may  
9 voluntarily withdraw from the savings fund. The director  
10 shall notify the inmate of this right to withdraw and shall  
11 provide the inmate with a written request form to facilitate  
12 the withdrawal. If the inmate withdraws and the inmate's  
13 deposits exceed the amount due as provided in section 906.9,  
14 the director shall disburse the excess amount as provided for  
15 allowances under section 904.702, except the director shall  
16 not deposit the excess amount in the inmate savings fund. If  
17 the inmate chooses to continue to participate in the savings  
18 fund, the inmate's deposits shall be returned to the inmate  
19 upon discharge, parole, or placement on work release.  
20 Otherwise, the inmate's deposits shall be disposed of as  
21 provided in subsection 3. An inmate's deposits into the  
22 savings fund may be used to provide the money due the inmate  
23 upon discharge, parole, or placement on work release, as  
24 required under section 906.9. ~~Interest-earned-from-the~~  
25 ~~savings-fund-shall-be-placed-in-a-separate-account,-and-may-be~~  
26 ~~used-for-purchases-approved-by-the-director-to-directly-and~~  
27 ~~collectively-benefit-inmates-~~

28     Sec. 14. Section 904.602, subsection 1, Code 1999, is  
29 amended by adding the following new paragraph:

30     NEW PARAGRAPH. m. Family and personal history if the  
31 individual is dead or has not received services from the  
32 department or the judicial district departments of  
33 correctional services for at least ten years prior to a  
34 request for the information.

35     Sec. 15. Section 904.602, subsection 2, paragraph h, Code

1 1999, is amended to read as follows:

2 h. Family and personal history if the individual is alive  
3 and has received services from the department or the judicial  
4 district departments of correctional services within the ten  
5 years preceding a request for the information.

6 Sec. 16. Section 904.809, subsection 2, paragraph b, Code  
7 Supplement 1999, is amended by adding the following new  
8 subparagraph:

9 NEW SUBPARAGRAPH. (3) The lease agreement shall establish  
10 a cost for the lease which shall take into consideration  
11 compensation for the amount of building space utilized  
12 compared to the cost of similar space leased outside the  
13 institution in the local community, maintenance costs, and  
14 modifications made to a correctional facility to accommodate  
15 the lessee such as payment of utilities and depreciation  
16 costs, and a pro rata cost of correctional officer supervision  
17 of inmates.

18 Sec. 17. Section 904.809, subsection 2, Code Supplement  
19 1999, is amended by adding the following new paragraph:

20 NEW PARAGRAPH. c. Effective July 1, 2001, a portion of  
21 moneys received pursuant to a lease negotiated pursuant to the  
22 requirements of this section shall be deposited in the general  
23 fund of the state and that portion of the moneys received  
24 representing the cost of building maintenance, modification,  
25 and utilities as it relates to the lease are deemed repayment  
26 receipts as defined in section 8.2.

27 Sec. 18. 1998 Iowa Acts, chapter 1197, section 13, is  
28 amended to read as follows:

29 SEC. 13. EFFECTIVE DATES -- REPEALS.

30 1. This division and Division I of this Act, being deemed  
31 of immediate importance, take effect upon enactment.

32 2. Division I of this Act is repealed June 30, ~~2000~~ 2002.

33 3. Division II of this Act takes effect July 1, ~~2000~~ 2002.

34 Sec. 19. EFFECTIVE DATE. Section 18 of this Act, being  
35 deemed of immediate importance, takes effect upon enactment.

EXPLANATION

1

2 This bill makes several changes to statutory provisions  
3 involving the department of corrections.

4 Code chapter 80D is amended to permit a judicial district  
5 department of correctional services to provide for the  
6 establishment of a force of reserve peace officers. The  
7 applicable director of the judicial district department of  
8 correctional services is given supervisory authority over  
9 these reserve officers.

10 Code section 222.60, governing the costs paid by a county  
11 or state for diagnosis and evaluation of persons with mental  
12 retardation, is amended. The change provides that the county  
13 in which a person is charged with a criminal offense is  
14 generally liable for the costs of transferring and referring  
15 that person to a state hospital-school for a diagnosis,  
16 determination, or evaluation, of the person in connection with  
17 the legal process.

18 Code section 226.30 is amended to require an administrator  
19 at a mental hospital to obtain approval from the director of  
20 the department of corrections prior to transferring a  
21 dangerous patient to the Iowa medical and classification  
22 center.

23 Code section 230.1 governing the liability of the state and  
24 counties concerning the support of a mentally ill person at a  
25 state hospital is amended. The change provides that the  
26 county in which a person is charged with a criminal offense is  
27 generally liable for the costs of transferring and referring  
28 that person to a state hospital for a diagnosis,  
29 determination, or evaluation, of the person in connection with  
30 the legal process.

31 Code section 904.201 is amended to provide that the county  
32 in which criminal charges are filed for a person is liable for  
33 the care and treatment of the person in the forensic  
34 psychiatric hospital, the Iowa medical and classification  
35 center at Oakdale.

1 Code section 904.202 is amended to require that trial  
2 judges, prosecuting attorneys, and presentence investigators  
3 provide the director of the department of corrections with any  
4 previously authorized presentence investigation on any inmate  
5 sent to the Oakdale intake and classification center of the  
6 department of corrections.

7 Code section 904.405, governing the transcription of  
8 testimony for certain investigations conducted by the  
9 department of corrections, is amended to allow the testimony  
10 to be recorded and not transcribed. If the case involving the  
11 testimony is appealed, or an interested person so requests and  
12 pays the cost, the recording will be transcribed. The  
13 recording, or transcription if applicable, will remain on file  
14 for at least five years following the date of the testimony or  
15 the date of a final decision in a case involving the  
16 testimony, whichever is later.

17 Code section 904.508 is amended to eliminate the authority  
18 of a superintendent of an institution to place moneys in an  
19 inmate savings fund in an interest-bearing account with  
20 interest accumulated to be used to make purchases to directly  
21 and collectively benefit inmates.

22 Code section 904.602 is amended to allow the release of  
23 family and personal history of an individual if the individual  
24 is dead or at least 10 years have passed since the individual  
25 received services from the department of corrections or a  
26 judicial district department of correctional services.

27 Code section 904.809 is amended to allow the director to  
28 factor in the cost of providing a private employer space in a  
29 correctional institution when a lease is negotiated with a  
30 private employer to provide work for inmates. The section is  
31 further amended to provide that, effective July 1, 2001, the  
32 portion of lease revenue consisting of the costs associated  
33 with leasing space in a correctional facility shall be deemed  
34 a repayment receipt as defined in Code section 8.2.

35 1998 Iowa Acts, chapter 1197, providing for the repeal of

1 the sixth judicial district pilot project concerning probation  
2 revocation hearings as of June, 30, 2000, is amended to delay  
3 the repeal of the project until June 30, 2002. This portion  
4 of the bill takes effect upon enactment.

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5-31/00 *J. Henry*

FEB 29 2000

REPRINTED

Place On Calendar

HOUSE FILE 2519  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 710)

Passed House, Date <sup>(p.622)</sup> 3/8/00 Passed Senate, Date <sup>(P.1086)</sup> 4-10-00  
Vote: Ayes 93 Nays 0 Vote: Ayes 49 Nays 0  
Approved 5/9/00

A BILL FOR

1 An Act relating to the repeal of the sixth judicial district  
2 pilot project concerning probation revocation hearings, and  
3 providing an effective date.

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

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*HF 2519*

1 Section 1. 1998 Iowa Acts, chapter 1197, section 13, is  
2 amended to read as follows:

3 SEC. 13. EFFECTIVE DATES -- REPEALS.

4 1. This division and Division I of this Act, being deemed  
5 of immediate importance, take effect upon enactment.

6 2. Division I of this Act is repealed June 30, ~~2000~~ 2002.

7 3. Division II of this Act takes effect July 1, ~~2000~~ 2002.

8 Sec. 2. EFFECTIVE DATE. This Act, being deemed of  
9 immediate importance, takes effect upon enactment.

10 EXPLANATION

11 This bill amends 1998 Iowa Acts, chapter 1197, which  
12 provides for the repeal of the sixth judicial district pilot  
13 project concerning probation revocation hearings as of June,  
14 30, 2000, to delay the repeal of the project until June 30,  
15 2002. The bill takes effect upon enactment.

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## HOUSE FILE 2519

H-8177

1 Amend House File 2519 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Section 1. Section 904A.1, Code 1999, is amended  
5 to read as follows:

6 904A.1 BOARD OF PAROLE.

7 The board of parole is created to consist of five  
8 members. Each member, except the chairperson and the  
9 vice chairperson, shall be compensated on a day-to-day  
10 basis. Each member shall serve a term of four years  
11 beginning and ending as provided by section 69.19,  
12 except for members appointed to fill vacancies who  
13 shall serve for the balance of the unexpired term.  
14 The terms shall be staggered. The chairperson and  
15 vice chairperson of the board shall be a full-time,  
16 salaried member members of the board. A majority of  
17 the members of the board constitutes a quorum to  
18 transact business.

19 Sec. \_\_\_\_ . NEW SECTION. 904A.4C VICE CHAIRPERSON  
20 OF THE BOARD OF PAROLE.

21 The vice chairperson of the board of parole shall  
22 be appointed from the membership of the board of  
23 parole by the governor. The vice chairperson shall  
24 serve at the pleasure of the governor and shall have  
25 such responsibilities and duties as are determined by  
26 the chairperson. The vice chairperson shall act as  
27 the chairperson in the absence or disability of the  
28 chairperson or in the event of a vacancy in that  
29 office, until such time as a new chairperson is  
30 appointed by the governor.

31 Sec. \_\_\_\_ . Section 904A.6, Code 1999, is amended to  
32 read as follows:

33 904A.6 SALARIES AND EXPENSES.

34 Each member, except the chairperson and the vice  
35 chairperson, of the board shall be paid per diem as  
36 determined by the general assembly. The chairperson  
37 and vice chairperson of the board shall be paid a  
38 salary as determined by the general assembly. Each  
39 member of the board and all employees are entitled to  
40 receive, in addition to their per diem or salary,  
41 their necessary maintenance and travel expenses while  
42 engaged in official business."

43 2. Title page, line 1, by inserting after the  
44 words "relating to" the following: "probation and  
45 parole by extending".

46 3. Title page, line 2, by inserting after the  
47 word "hearings" the following: "and by establishing  
48 the position of vice chairperson of the board of  
49 parole".

50 4. By renumbering as necessary.

By SUNDERBRUCH of Scott  
LARSON of Linn

H-8177 FILED MARCH 6, 2000

*Adopted*  
*3/8/00 (P. 621)*

(SUCCESSOR TO HSB 710)

(As Amended and Passed by the House, March 8, 2000)

Passed House, Date                      Passed Senate, Date 4-26-00  
Vote: Ayes        Nays        Vote: Ayes 47 Nays 1  
Approved 5/9/00

**A BILL FOR**

1 An Act relating to probation and parole by extending the repeal  
2 of the sixth judicial district pilot project concerning  
3 probation revocation hearings and by establishing the position  
4 of vice chairperson of the board of parole, and providing an  
5 effective date.

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

House Amendments                     

*HF 2519*

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1 Section 1. Section 904A.1, Code 1999, is amended to read  
2 as follows:

3 904A.1 BOARD OF PAROLE.

4 The board of parole is created to consist of five members.  
5 Each member, except the chairperson and the vice chairperson,  
6 shall be compensated on a day-to-day basis. Each member shall  
7 serve a term of four years beginning and ending as provided by  
8 section 69.19, except for members appointed to fill vacancies  
9 who shall serve for the balance of the unexpired term. The  
10 terms shall be staggered. The chairperson and vice  
11 chairperson of the board shall be a full-time, salaried member  
12 members of the board. A majority of the members of the board  
13 constitutes a quorum to transact business.

14 Sec. 2. NEW SECTION. 904A.4C VICE CHAIRPERSON OF THE  
15 BOARD OF PAROLE.

16 The vice chairperson of the board of parole shall be  
17 appointed from the membership of the board of parole by the  
18 governor. The vice chairperson shall serve at the pleasure of  
19 the governor and shall have such responsibilities and duties  
20 as are determined by the chairperson. The vice chairperson  
21 shall act as the chairperson in the absence or disability of  
22 the chairperson or in the event of a vacancy in that office,  
23 until such time as a new chairperson is appointed by the  
24 governor.

25 Sec. 3. Section 904A.6, Code 1999, is amended to read as  
26 follows:

27 904A.6 SALARIES AND EXPENSES.

28 Each member, except the chairperson and the vice  
29 chairperson, of the board shall be paid per diem as determined  
30 by the general assembly. The chairperson and vice chairperson  
31 of the board shall be paid a salary as determined by the  
32 general assembly. Each member of the board and all employees  
33 are entitled to receive, in addition to their per diem or  
34 salary, their necessary maintenance and travel expenses while  
35 engaged in official business.

1 Sec. 4. 1998 Iowa Acts, chapter 1197, section 13, is  
2 amended to read as follows:

3 SEC. 13. EFFECTIVE DATES -- REPEALS.

4 1. This division and Division I of this Act, being deemed  
5 of immediate importance, take effect upon enactment.

6 2. Division I of this Act is repealed June 30, ~~2000~~ 2002.

7 3. Division II of this Act takes effect July 1, ~~2000~~ 2002.

8 Sec. 5. EFFECTIVE DATE. This Act, being deemed of  
9 immediate importance, takes effect upon enactment.

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## HOUSE FILE 2519

S-5165

1 Amend House File 2519, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 80D.1, Code 1999, is amended  
6 to read as follows:

7 80D.1 ESTABLISHMENT OF A FORCE OF RESERVE PEACE  
8 OFFICERS.

9 The governing body of a city, a county, or the  
10 state of Iowa, or a judicial district department of  
11 correctional services may provide, either separately  
12 or collectively through a chapter 28E agreement, for  
13 the establishment of a force of reserve peace  
14 officers, and may limit the size of the reserve force.  
15 In the case of the state, the department of public  
16 safety shall act as the governing body.

17 This chapter constitutes the only procedure for  
18 appointing reserve peace officers.

19 Sec. 2. Section 80D.4, Code 1999, is amended to  
20 read as follows:

21 80D.4 TRAINING.

22 Training for individuals appointed as reserve peace  
23 officers shall be provided by that law enforcement  
24 agency, but may be obtained in a community college or  
25 other facility selected by the individual and approved  
26 by the law enforcement agency. Upon satisfactory  
27 completion of training, the chief of police, sheriff,  
28 or commissioner of public safety, or director of the  
29 judicial district department of correctional services  
30 shall certify the individual as a reserve peace  
31 officer.

32 Sec. 3. Section 80D.6, Code 1999, is amended to  
33 read as follows:

34 80D.6 STATUS OF RESERVE PEACE OFFICERS.

35 Reserve peace officers shall serve as peace  
36 officers on the orders and at the discretion of the  
37 chief of police, sheriff, ~~or~~ commissioner of public  
38 safety or the commissioner's designee, or director of  
39 the judicial district department of correctional  
40 services or the director's designee, as the case may  
41 be.

42 While in the actual performance of official duties,  
43 reserve peace officers shall be vested with the same  
44 rights, privileges, obligations, and duties as any  
45 other peace officers.

46 Sec. 4. Section 80D.7, Code 1999, is amended to  
47 read as follows:

48 80D.7 CARRYING WEAPONS.

49 A member of a reserve force shall not carry a  
50 weapon in the line of duty until the member has been

S-5165

S-5165

Page 2

1 approved by the governing body and certified by the  
 2 Iowa law enforcement academy council to carry weapons.  
 3 After approval and certification, a reserve peace  
 4 officer may carry a weapon in the line of duty only  
 5 when authorized by the chief of police, sheriff, or  
 6 commissioner of public safety or the commissioner's  
 7 designee, or director of the judicial district  
 8 department of correctional services or the director's  
 9 designee, as the case may be.

10 Sec. 5. Section 80D.9, Code 1999, is amended to  
 11 read as follows:

12 80D.9 SUPERVISION OF RESERVE PEACE OFFICERS.  
 13 Reserve peace officers shall be subordinate to  
 14 regular peace officers, shall not serve as peace  
 15 officers unless under the direction of regular peace  
 16 officers, and shall wear a uniform prescribed by the  
 17 chief of police, sheriff, or commissioner of public  
 18 safety, or director of the judicial district  
 19 department of correctional services unless that  
 20 superior officer designates alternate apparel for use  
 21 when engaged in assignments involving special  
 22 investigation, civil process, court duties, jail  
 23 duties and the handling of mental patients. The  
 24 reserve peace officer shall not wear an insignia of  
 25 rank. Each department for which a reserve force is  
 26 established shall appoint a regular force peace  
 27 officer as the reserve force co-ordinating and  
 28 supervising officer. That regular peace officer shall  
 29 report directly to the chief of police, sheriff, or  
 30 commissioner of public safety or the commissioner's  
 31 designee, or director of the judicial district  
 32 department of correctional services or the director's  
 33 designee, as the case may be.

34 Sec. 6. Section 80D.11, Code 1999, is amended to  
 35 read as follows:

36 80D.11 EMPLOYEE -- PAY.  
 37 While performing official duties, each reserve  
 38 peace officer shall be considered an employee of the  
 39 governing body which the officer represents and shall  
 40 be paid a minimum of one dollar per year. The  
 41 governing body of a city, a county, or the state, or a  
 42 judicial district department of correctional services  
 43 may provide additional monetary assistance for the  
 44 purchase and maintenance of uniforms and equipment  
 45 used by reserve peace officers.

46 Sec. 7. Section 222.60, Code 1999, is amended to  
 47 read as follows:

48 222.60 COSTS PAID BY COUNTY OR STATE -- DIAGNOSIS  
 49 AND EVALUATION.

50 1. All necessary and legal expenses for the cost  
 S-5165 -2-

S-5165

Page 3

1 of admission or commitment, including expenses  
2 incurred pursuant to section 812.5, or for the  
3 treatment, training, instruction, care, habilitation,  
4 support and transportation of persons with mental  
5 retardation, as provided for in the county management  
6 plan provisions implemented pursuant to section  
7 331.439, subsection 1, in a state hospital-school, or  
8 in a special unit, or any public or private facility  
9 within or without the state, approved by the director  
10 of the department of human services, shall be paid by  
11 either a county or by the state as follows:

12 1- a. The county in which such person has legal  
13 settlement as defined in section 252.16.

14 b. The county in which such person has been  
15 charged with a criminal offense if the person is  
16 transferred or referred to a state hospital-school for  
17 any of the following:

18 (1) A diagnosis or recommendation as part of the  
19 pretrial or presentence procedure.

20 (2) A determination of mental competency or,  
21 pursuant to Iowa rule of criminal procedure 21, a  
22 placement of a defendant.

23 (3) A determination of competency to stand trial,  
24 a determination of a defendant's dangerousness, or a  
25 commitment as mentally incompetent to stand trial  
26 pursuant to section 812.4.

27 (4) A diagnosis, evaluation, or treatment for a  
28 prisoner transferred from a county or city jail.

29 2- c. The state when such person has no legal  
30 settlement or when such settlement is unknown.

31 2. Prior to a county of legal settlement approving  
32 the payment of expenses for a person under this  
33 section to which subsection 1, paragraph "a", applies,  
34 the county may require that the person be diagnosed to  
35 determine if the person has mental retardation or that  
36 the person be evaluated to determine the appropriate  
37 level of services required to meet the person's needs  
38 relating to mental retardation. The diagnosis and the  
39 evaluation may be performed concurrently and shall be  
40 performed by an individual or individuals approved by  
41 the county who are qualified to perform the diagnosis  
42 or the evaluation. Following the initial approval for  
43 payment of expenses, the county of legal settlement  
44 may require that an evaluation be performed at  
45 reasonable time periods. The cost of a county-  
46 required diagnosis and an evaluation is at the  
47 county's expense. In the case of a person without  
48 legal settlement or whose legal settlement is unknown,  
49 the state may apply the diagnosis and evaluation  
50 provisions of this paragraph at the state's expense.

S-5165

-3-

S-5165

Page 4

1 A diagnosis or an evaluation under this section of a  
2 person to which subsection 1, paragraph "a", applies,  
3 may be part of a county's single entry point process  
4 under section 331.440, provided that a diagnosis is  
5 performed only by an individual qualified as provided  
6 in this section. However, the single entry point  
7 process is not applicable and a court is not required  
8 to seek authorization through the single entry point  
9 process prior to transferring or referring a person to  
10 a state hospital-school for any reason provided in  
11 subsection 1, paragraph "b".

12 3. A diagnosis of mental retardation under this  
13 section shall be made only when the onset of the  
14 person's condition was prior to the age of eighteen  
15 years and shall be based on an assessment of the  
16 person's intellectual functioning and level of  
17 adaptive skills. The diagnosis shall be made by an  
18 individual who is a psychologist or psychiatrist who  
19 is professionally trained to administer the tests  
20 required to assess intellectual functioning and to  
21 evaluate a person's adaptive skills.

22 4. A diagnosis of mental retardation shall be made  
23 in accordance with the criteria provided in the  
24 diagnostic and statistical manual of mental disorders,  
25 fourth edition, published by the American psychiatric  
26 association.

27 Sec. 8. Section 226.30, Code 1999, is amended to  
28 read as follows:

29 226.30 TRANSFER OF DANGEROUS PATIENTS.

30 When a patient of any hospital for persons with  
31 mental illness becomes incorrigible, and unmanageable  
32 to such an extent that the patient is dangerous to the  
33 safety of others in the hospital, the administrator,  
34 following review and approval of the director of the  
35 department of corrections, may apply in writing to the  
36 district court or to any judge thereof, of the county  
37 in which the hospital is situated, for an order to  
38 transfer the patient to the Iowa medical and  
39 classification center and if the order is granted the  
40 patient shall be ~~so~~ transferred. The county attorney  
41 of the county shall appear in support of the  
42 application on behalf of the administrator.

43 Sec. 9. Section 230.1, Code Supplement 1999, is  
44 amended to read as follows:

45 230.1 LIABILITY OF COUNTY AND STATE.

46 1. The necessary and legal costs and expenses  
47 attending the taking into custody, care,  
48 investigation, admission, commitment, including civil  
49 commitment pursuant to section 812.5, and support of a  
50 person with mental illness admitted or committed to a

S-5165

-4-



S-5165

Page 5

1 state hospital shall be paid by a county or by the  
2 state as follows:

3 a. By the county in which such person has a legal  
4 settlement, if the person is eighteen years of age or  
5 older.

6 b. By the county in which such person has been  
7 charged with a criminal offense if the person is  
8 transferred or referred to a state hospital for any of  
9 the following:

10 (1) A psychosocial diagnosis or recommendation as  
11 part of the pretrial or presentence procedure.

12 (2) A determination of mental competency or,  
13 pursuant to Iowa rule of criminal procedure 21, a  
14 placement of a defendant.

15 (3) A determination of competency to stand trial,  
16 a determination of a defendant's dangerousness, or a  
17 commitment as mentally incompetent to stand trial  
18 pursuant to section 812.4.

19 (4) A diagnosis, evaluation, or treatment for  
20 mental illness for a prisoner transferred from a  
21 county or city jail.

22 b. c. By the state when such person has no legal  
23 settlement in this state, when the person's legal  
24 settlement is unknown, or if the person is under  
25 eighteen years of age.

26 2. The legal settlement of any person found  
27 mentally ill who is a patient of any state institution  
28 shall be that existing at the time of admission  
29 thereto.

30 3. A county of legal settlement is not liable for  
31 costs and expenses associated with a person with  
32 mental illness to which subsection 1, paragraph "a",  
33 applies, unless the costs and expenses are for  
34 services and other support authorized for the person  
35 through the single entry point process. However, the  
36 single entry point process is not applicable and a  
37 court is not required to seek authorization through  
38 the single entry point process prior to ordering an  
39 evaluation of, transferring, or referring a person to  
40 a state hospital for any reason provided in subsection  
41 1, paragraph "b". For the purposes of this chapter,  
42 "single entry point process" means the same as defined  
43 in section 331.440.

44 Sec. 10. Section 704.8, Code 1999, is amended to  
45 read as follows:

46 704.8 ESCAPE FROM PLACE OF CONFINEMENT.

47 A correctional officer or peace officer is  
48 justified in using reasonable force, including deadly  
49 force, which is necessary to prevent the escape of any  
50 person from any jail, penal institution, correctional

S-5165

-5-

S-5165

Page 6

1 facility, or similar place of confinement, or place of  
2 trial or other judicial proceeding, or to prevent the  
3 escape from custody of any person who is being  
4 transported from any such place of confinement, trial  
5 or judicial proceeding to any other such place, except  
6 that deadly force may not be used to prevent the  
7 escape of one who the correctional officer or peace  
8 officer knows ~~or-should-know~~ is confined on a charge  
9 or conviction of any class of misdemeanor.

10 Sec. 11. Section 904.201, subsection 8, Code 1999,  
11 is amended to read as follows:

12 8. ~~Chapter-230-governs-the-determination-of~~ The  
13 costs and charges for the care and treatment of  
14 persons ~~with-mental-illness~~ admitted to the forensic  
15 psychiatric hospital pursuant to subsection 3, shall  
16 be paid by the county in which the criminal charges  
17 are filed, except that charges for the care and  
18 treatment of any person transferred to the forensic  
19 psychiatric hospital from an adult correctional  
20 institution or from a state training school shall be  
21 paid entirely from state funds. The court ordering a  
22 person to the forensic psychiatric hospital for care  
23 and treatment shall not be subject to the single entry  
24 point process under section 331.440. Charges for all  
25 other persons at the forensic psychiatric hospital  
26 shall be billed to the respective counties at the same  
27 ratio as for patients at state mental health  
28 institutes under section 230.20. The Iowa medical and  
29 classification center shall bill the proper county  
30 directly.

31 Sec. 12. Section 904.202, Code 1999, is amended to  
32 read as follows:

33 904.202 INTAKE AND CLASSIFICATION CENTER.

34 The director may provide facilities and personnel  
35 for a diagnostic intake and classification center.  
36 The work of the center shall include a scientific  
37 study of each inmate, the inmate's career and life  
38 history, the causes of the inmate's criminal acts and  
39 recommendations for the inmate's custody, care,  
40 training, employment, and counseling with a view to  
41 rehabilitation and to the protection of society. To  
42 facilitate the work of the center and to aid in the  
43 rehabilitation of the inmates, the trial judge,  
44 prosecuting attorney, and presentence investigators  
45 shall furnish the director ~~upon-request~~ with any  
46 previously authorized presentence investigation report  
47 and a full statement of facts and circumstances  
48 attending the commission of the offense so far as  
49 known or believed by them. If the department develops  
50 and utilizes an inmate classification system, it must,

S-5165

-6-

S-5165

Page 7

1 within a reasonable time, present evidence from  
2 independent experts as to the effectiveness and  
3 validity of the classification system.

4 Sec. 13. Section 904.405, Code 1999, is amended to  
5 read as follows:

6 904.405 TRANSCRIPT OF TESTIMONY.

7 The director shall cause the testimony taken at the  
8 investigation to be ~~transcribed and~~ recorded. The  
9 recording of the testimony shall not be transcribed  
10 unless the testimony is part of a case that is  
11 appealed or an interested party requests a transcript.  
12 The recording of the testimony, or the transcription  
13 thereof, shall be filed and maintained in the  
14 director's office at the seat of government within ten  
15 days after the testimony is taken, or as soon as  
16 practicable, and when filed the testimony shall be  
17 open for the inspection of any person for at least  
18 five years from the date the testimony is taken or the  
19 date of a final decision in a case involving the  
20 testimony, whichever is later.

21 Sec. 14. Section 904.508, subsections 1 and 2,  
22 Code 1999, are amended to read as follows:

23 1. The superintendent of each institution shall  
24 receive and care for any property an inmate may  
25 possess on the inmate's person upon entering the  
26 institution, and on the discharge of the inmate,  
27 return the property to the inmate or the inmate's  
28 legal representatives, unless the property has been  
29 previously disposed of according to the inmate's  
30 written designation or policies prescribed by the  
31 board. ~~The superintendent may place an inmate's money~~  
32 ~~at interest, keeping an account of the money and~~  
33 ~~returning the remaining money upon discharge.~~

34 2. The director shall establish and maintain an  
35 inmate savings fund in an ~~interest-bearing~~ account for  
36 the deposit of all or part of an inmate's allowances,  
37 as provided in section 904.702. All or part of an  
38 inmate's allowances shall be deposited into the  
39 savings fund, until the inmate's deposit is equal to  
40 the amount due the inmate upon discharge, parole, or  
41 placement on work release, as provided in section  
42 906.9. If an inmate's deposits equal this amount, the  
43 inmate may voluntarily withdraw from the savings fund.  
44 The director shall notify the inmate of this right to  
45 withdraw and shall provide the inmate with a written  
46 request form to facilitate the withdrawal. If the  
47 inmate withdraws and the inmate's deposits exceed the  
48 amount due as provided in section 906.9, the director  
49 shall disburse the excess amount as provided for  
50 allowances under section 904.702, except the director

S-5165

-7-

S-5165

Page 8

1 shall not deposit the excess amount in the inmate  
2 savings fund. If the inmate chooses to continue to  
3 participate in the savings fund, the inmate's deposits  
4 shall be returned to the inmate upon discharge,  
5 parole, or placement on work release. Otherwise, the  
6 inmate's deposits shall be disposed of as provided in  
7 subsection 3. An inmate's deposits into the savings  
8 fund may be used to provide the money due the inmate  
9 upon discharge, parole, or placement on work release,  
10 as required under section 906.9. ~~Interest-earned-from~~  
11 ~~the-savings-fund-shall-be-placed-in-a-separate~~  
12 ~~account, and may be used for purchases approved by the~~  
13 ~~director to directly and collectively benefit inmates.~~

14 Sec. 15. Section 904.602, subsection 1, Code 1999,  
15 is amended by adding the following new paragraph:

16 NEW PARAGRAPH. m. Family and personal history if  
17 the individual is dead or has not received services  
18 from the department or the judicial district  
19 departments of correctional services for at least ten  
20 years prior to a request for the information.

21 Sec. 16. Section 904.602, subsection 2, paragraph  
22 h, Code 1999, is amended to read as follows:

23 h. Family and personal history if the individual  
24 is alive and has received services from the department  
25 or the judicial district departments of correctional  
26 services within the ten years preceding a request for  
27 the information.

28 Sec. 17. Section 904.809, subsection 2, paragraph  
29 b, Code Supplement 1999, is amended by adding the  
30 following new subparagraph:

31 NEW SUBPARAGRAPH. (3) The lease agreement shall  
32 establish a cost for the lease which shall take into  
33 consideration compensation for the amount of building  
34 space utilized compared to the cost of similar space  
35 leased outside the institution in the local community,  
36 maintenance costs, and modifications made to a  
37 correctional facility to accommodate the lessee such  
38 as payment of utilities and depreciation costs, and a  
39 pro rata cost of correctional officer supervision of  
40 inmates.

41 Sec. 18. Section 904.809, subsection 2, Code  
42 Supplement 1999, is amended by adding the following  
43 new paragraph:

44 NEW PARAGRAPH. c. Effective July 1, 2001, a  
45 portion of moneys received pursuant to a lease  
46 negotiated pursuant to the requirements of this  
47 section shall be deposited in the general fund of the  
48 state and that portion of the moneys received  
49 representing the cost of building maintenance,  
50 modification, and utilities as it relates to the lease

S-5165

S-5165

Page 9

1 are deemed repayment receipts as defined in section  
2 8.2.

3 Sec. 19. Section 904A.1, Code 1999, is amended to  
4 read as follows:

5 904A.1 BOARD OF PAROLE.

6 The board of parole is created to consist of five  
7 members. Each member, except the chairperson and the  
8 vice chairperson, shall be compensated on a day-to-day  
9 basis. Each member shall serve a term of four years  
10 beginning and ending as provided by section 69.19,  
11 except for members appointed to fill vacancies who  
12 shall serve for the balance of the unexpired term.  
13 The terms shall be staggered. The chairperson and  
14 vice chairperson of the board shall be a full-time,  
15 salaried ~~member~~ members of the board. A majority of  
16 the members of the board constitutes a quorum to  
17 transact business.

18 Sec. 20. NEW SECTION. 904A.4C VICE CHAIRPERSON  
19 OF THE BOARD OF PAROLE.

20 The vice chairperson of the board of parole shall  
21 be appointed from the membership of the board of  
22 parole by the governor. The vice chairperson shall  
23 serve at the pleasure of the governor and shall have  
24 such responsibilities and duties as are determined by  
25 the chairperson. The vice chairperson shall act as  
26 the chairperson in the absence or disability of the  
27 chairperson or in the event of a vacancy in that  
28 office, until such time as a new chairperson is  
29 appointed by the governor.

30 Sec. 21. Section 904A.6, Code 1999, is amended to  
31 read as follows:

32 904A.6 SALARIES AND EXPENSES.

33 Each member, except the chairperson and the vice  
34 chairperson, of the board shall be paid per diem as  
35 determined by the general assembly. The chairperson  
36 and vice chairperson of the board shall be paid a  
37 salary as determined by the general assembly. Each  
38 member of the board and all employees are entitled to  
39 receive, in addition to their per diem or salary,  
40 their necessary maintenance and travel expenses while  
41 engaged in official business.

42 Sec. 22. 1998 Iowa Acts, chapter 1197, section 13,  
43 is amended to read as follows:

44 SEC. 13. EFFECTIVE DATES -- REPEALS.

45 1. This division and Division I of this Act, being  
46 deemed of immediate importance, take effect upon  
47 enactment.

48 2. Division I of this Act is repealed June 30,  
49 ~~2000~~ 2002.

50 3. Division II of this Act takes effect July 1,

S-5165

-9-

S-5165

Page 10

- 1 ~~2000~~ 2002.
- 2 Sec. 23. EFFECTIVE DATE. Section 22 of this Act,
- 3 being deemed of immediate importance, takes effect
- 4 upon enactment."
- 5 2. Title page, by striking lines 1 through 5 and
- 6 inserting the following: "An Act relating to the
- 7 department of corrections and concerning the
- 8 establishment of reserve peace officers, the transfer
- 9 of patients to the Iowa medical and classification
- 10 center, the transcription and recording of testimony
- 11 in certain departmental investigations, inmate
- 12 accounts and work programs, the receipt and release of
- 13 certain records by the department, the use of force by
- 14 correctional or peace officers, the establishment of a
- 15 vice chairperson for the board of parole, the delayed
- 16 repeal of the sixth judicial district pilot project
- 17 concerning probation revocation hearings, and
- 18 providing an effective date."
- 19 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY  
ANDY MCKEAN, Chairperson

S-5165 FILED MARCH 16, 2000

*adopted*  
*4/10/00 (P 1085)*

## HOUSE FILE 2519

S-5199

- 1 Amend the amendment, S-5165, to House File 2519, as
- 2 amended, passed, and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, by striking lines 19 through 31.
- 5 2. By renumbering as necessary.

By JEFF ANGELO

S-5199 FILED MARCH 21, 2000

*adopted 3.28.00 (P 894)*

HOUSE FILE 2519

S-5238

1 Amend the amendment, S-5165, to House File 2519, as  
B 2 amended, passed, and reprinted by the House, as  
3 follows:

- A 4 1. Page 1, by striking lines 19 through 31.  
5 2. Page 3, line 2, by striking the word "section"  
6 and inserting the following: "sections 812.4 and".  
7 3. Page 3, by striking lines 14 through 28.  
8 4. Page 3, line 29, by striking the letter "c."  
9 and inserting the following: "b."  
10 5. Page 4, by striking lines 6 through 11 and  
11 inserting the following: "in this section."  
12 6. Page 4, line 48, by inserting after the word  
13 "including" the following: "commitment pursuant to  
14 section 812.4 and".  
15 7. Page 5, by striking lines 6 through 21.  
16 8. Page 5, line 22, by striking the letters "b-  
B 17 c." and inserting the following: "b."  
18 9. Page 5, by striking lines 35 through 41 and  
19 inserting the following: "through the single entry  
20 point process. For the purposes of this chapter,".

By JEFF ANGELO

S-5238 FILED MARCH 23, 2000

A. W/O 3/28/00 (P. 894)

B. W/O 4/4/00 (P. 990)

## HOUSE FILE 2519

S-5295

1 Amend the amendment, S-5165, to House File 2519, as  
2 passed by the House, as follows:

3 1. Page 9, by inserting after line 41 the  
4 following:

5 "Sec. 101. Section 907.8A, Code Supplement 1999,  
6 is amended to read as follows:

7 907.8A SIXTH JUDICIAL DISTRICT PILOT PROJECT --  
8 DETERMINATION OF ISSUES DURING PROBATIONARY PERIOD.

9 1. Except as otherwise provided, the probation  
10 violation sanctioning jurisdiction of the court in the  
11 sixth judicial district selected by the department of  
12 corrections to participate in a pilot probation  
13 revocation project shall be transferred to an  
14 administrative parole and probation judge upon entry  
15 of the sentencing order for each person who is  
16 sentenced to the custody of the director of the  
17 department of corrections and whose sentence is  
18 suspended. The court shall retain jurisdiction to  
19 establish the amount of restitution, approve the plan  
20 of restitution, and for reconsideration of the  
21 original sentence. The court shall also retain  
22 jurisdiction for arrest warrants, initial appearances,  
23 preliminary probation violation informations, bond  
24 proceedings, violations of restitution plans, and  
25 appointment of counsel. If a person is not sentenced  
26 to the custody of the director of the department of  
27 corrections the court shall retain the jurisdiction  
28 over matters relating to those cases.

29 2. All issues relating to whether the probationer  
30 has violated or fulfilled the terms and conditions of  
31 probation, including but not limited to express  
32 violations of a specific term of probation, new  
33 violations of the law, and changes of the term of  
34 probation as provided in sections 907.7, 908.11, and  
35 910.4, which would otherwise be determined by the  
36 court, shall be determined instead by an  
37 administrative parole and probation judge. The  
38 administrative parole and probation judge, who shall  
39 be an attorney, shall be appointed by the board of  
40 parole, notwithstanding chapter 17A. The costs of  
41 employing the administrative parole and probation  
42 judge shall be borne by the board of parole.

43 A probation hearing conducted by an administrative  
44 parole and probation judge shall be conducted in the  
45 same manner as hearings regarding revocations or  
46 modifications of or discharge from parole. The  
47 hearing may be conducted electronically. The  
48 probation officer shall notify the county attorney at  
49 least five days prior to any probation hearing. The  
50 interests of the state shall be represented by the

S-5295



S-5295

Page 2

1 probation officer at the probation hearing, unless the  
2 county attorney or the county attorney's designee  
3 elects to assist the probation officer. The board of  
4 parole, the department of corrections, and the clerk  
5 of the district court in the sixth judicial district  
6 selected by the department of corrections to  
7 participate in the pilot probation revocation project  
8 shall devise and implement a system for the filing of  
9 documents and records of probation hearings conducted  
10 under this section. The system shall allow for the  
11 electronic filing of records and documents where  
12 electronic filing is practicable.

13 3. Appeals from orders of the administrative  
14 parole and probation judge which pertain to the  
15 revocations or modifications of or discharge from  
16 probation shall be conducted in the manner provided in  
17 rules adopted by the board of parole.

18 Sec. 102. Section 908.11, subsections 4 and 5,  
19 Code 1999, are amended to read as follows:

20 4. If the person who is believed to have violated  
21 the conditions of probation was sentenced and placed  
22 on probation in the sixth judicial district selected  
23 by the department of corrections to participate in the  
24 pilot probation revocation project under section  
25 907.8A, or jurisdiction over the person was  
26 transferred to the sixth judicial district selected by  
27 the department of corrections to participate in the  
28 pilot probation revocation project as a result of  
29 transfer of the person's probation supervision, the  
30 functions of the liaison officer and the board of  
31 parole may be performed by the administrative parole  
32 and probation judge as provided in section 907.8A.

33 5. If the probation officer proceeds by arrest and  
34 section 907.8A applies, the administrative parole and  
35 probation judge may conduct the probable cause hearing  
36 and probation revocation hearing. The probable cause  
37 hearing and probation revocation hearing may, at the  
38 discretion of the administrative parole and probation  
39 judge, be merged into a single hearing when it appears  
40 that the alleged violator will not be prejudiced by  
41 the merger. An administrative parole and probation  
42 judge may conduct any or all appearances or hearings  
43 electronically or by telephone. An administrative  
44 parole and probation judge may reconsider a person's  
45 sentence in the manner provided in sections 902.4 and  
46 903.2 if reconsideration is deemed appropriate and the  
47 person's probation was revoked by an administrative  
48 parole and probation judge in the sixth judicial  
49 district selected by the department of corrections to  
50 participate in a pilot probation revocation project.

S-5295

-2-

S-5295

Page 3

1 The sheriff shall coordinate and provide  
2 transportation and security for probation hearings  
3 conducted by an administrative parole and probation  
4 judge.

5 Sec. \_\_\_\_\_. 1998 Iowa Acts, chapter 1197, section  
6 11, is repealed."

7 2. Page 10, by inserting after line 1 the  
8 following:

9 "Sec. \_\_\_\_\_. PILOT PROJECT EVALUATIONS.

10 1. The division of criminal and juvenile justice  
11 planning of the department of human rights, in  
12 cooperation with the court, prosecutors, and community  
13 corrections personnel of the sixth judicial district  
14 and representatives of the board of parole, shall  
15 conduct an evaluation of the effectiveness of the  
16 sixth judicial district probation pilot project. The  
17 evaluation shall include but shall not be limited to a  
18 comparative assessment of the effect of the use of an  
19 administrative parole and probation judge on the  
20 efficient processing of cases, sentences imposed,  
21 number of revocations, and offender compliance with  
22 sentence terms in the sixth judicial district. The  
23 evaluation shall be submitted in a report to the  
24 general assembly which convenes in January 2001, or,  
25 if the department of corrections selects the sixth  
26 judicial district to participate in the pilot  
27 probation revocation project until June 30, 2002, to  
28 the general assembly which convenes in January 2003.

29 2. If the department of corrections selects a  
30 judicial district other than the sixth judicial  
31 district to participate in the pilot probation  
32 revocation project until June 30, 2002, the division  
33 of criminal and juvenile justice planning of the  
34 department of human rights, in cooperation with the  
35 court, prosecutors, and community corrections  
36 personnel of the judicial district selected and  
37 representatives of the board of parole, shall conduct  
38 an evaluation of the effectiveness of the probation  
39 pilot project for the selected judicial district. The  
40 evaluation shall include but shall not be limited to a  
41 comparative assessment of the effect of the use of an  
42 administrative parole and probation judge on the  
43 efficient processing of cases, sentences imposed,  
44 number of revocations, and offender compliance with  
45 sentence terms in the selected judicial district. The  
46 evaluation shall be submitted in a report to the  
47 general assembly which convenes in January 2003.

48 Sec. \_\_\_\_\_. Sections 101 and 102 of this Act are  
49 repealed June 30, 2002."

50 3. Page 10, lines 15 and 16, by striking the

S-5295

S-5295

Page 4

1 words "delayed repeal of the sixth".

2 4. By renumbering as necessary.

By ROBERT E. DVORSKY

JEFF ANGELO

S-5295 FILED MARCH 28, 2000

*W/D  
4/10/00  
(p. 1085)*

## HOUSE FILE 2519

S-5310

1 Amend the amendment, S-5165, to House File 2519, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. By striking page 2, line 46, through page 4,  
5 line 26.

6 2. By striking page 4, line 43, through page 5,  
7 line 43.

8 3. Page 6, by striking lines 10 through 30.

9 4. Page 10, by inserting after line 1 the  
10 following:

11 "Sec. 101. PERSONS WITH MENTAL RETARDATION --  
12 LIABILITY OF COUNTY AND STATE.

13 1. Notwithstanding any provision of section 222.60  
14 to the contrary, all necessary and legal expenses for  
15 the cost of admission or commitment or for the  
16 treatment, training, instruction, care, habilitation,  
17 support, and transportation of an eligible person with  
18 mental retardation, as provided for in the county  
19 management plan provisions implemented pursuant to  
20 section 331.439, subsection 1, shall be paid by the  
21 county in which such person has a legal settlement as  
22 defined in section 252.16, or, if such person has no  
23 legal settlement or when such settlement is unknown,  
24 by the state. The provisions of section 222.60 not  
25 inconsistent with this section shall apply to this  
26 section.

27 2. For purposes of this section, an "eligible  
28 person with mental retardation" means a person with  
29 mental retardation who has been charged with a  
30 criminal offense and who is transferred or referred to  
31 a state hospital-school for any of the following  
32 reasons:

33 a. A diagnosis or recommendation as part of the  
34 pretrial or presentence procedure.

35 b. A determination of mental competency or,  
36 pursuant to Iowa rule of criminal procedure 21, a  
37 placement of a defendant.

38 c. A determination of competency to stand trial, a  
39 determination of a defendant's dangerousness, or a  
40 commitment as mentally incompetent to stand trial  
41 pursuant to section 812.4.

42 d. A diagnosis, evaluation, or treatment for a  
43 prisoner transferred from a county or city jail.

44 3. The single entry point process established by a  
45 county under section 331.440 shall not apply to this  
46 section and a court is not required to seek  
47 authorization through the single entry point process  
48 prior to transferring or referring an eligible person  
49 with mental retardation to a state hospital-school for  
50 any reason described in subsection 2, paragraphs "a"

S-5310

S-5310

Page 2

1 through "d".

2 4. This section is repealed June 30, 2001.

3 Sec. 102. PERSONS WITH MENTAL ILLNESS -- LIABILITY  
4 OF COUNTY AND STATE.

5 1. Notwithstanding any provision of section 230.1  
6 to the contrary, the necessary and legal costs and  
7 expenses attending the taking into custody, care,  
8 investigation, admission, commitment, and support of  
9 an eligible person with mental illness shall be paid  
10 by a county in which such person has a legal  
11 settlement, if the person is eighteen years of age or  
12 older; or, if such person has no legal settlement in  
13 this state, the person's legal settlement is unknown,  
14 or the person is under eighteen years of age, by the  
15 state. The provisions of section 230.1 not  
16 inconsistent with this section shall apply to this  
17 section.

18 2. For purposes of this section, an "eligible  
19 person with mental illness" means a person with mental  
20 illness who has been charged with a criminal offense  
21 and who is transferred or referred to a state hospital  
22 for any of the following reasons:

23 a. A psychosocial diagnosis or recommendation as  
24 part of the pretrial or presentence procedure.

25 b. A determination of mental competency or,  
26 pursuant to Iowa rule of criminal procedure 21, a  
27 placement of a defendant.

28 c. A determination of competency to stand trial, a  
29 determination of a defendant's dangerousness, or a  
30 commitment as mentally incompetent to stand trial  
31 pursuant to section 812.4.

32 d. A diagnosis, evaluation, or treatment for  
33 mental illness for a prisoner transferred from a  
34 county or city jail.

35 3. The single entry point process established by a  
36 county under section 331.440 shall not apply to this  
37 section and a court is not required to seek  
38 authorization through the single entry point process  
39 prior to transferring or referring an eligible person  
40 with mental illness to a state hospital for any reason  
41 described in subsection 2, paragraphs "a" through "d".

42 4. This section is repealed June 30, 2001.

43 Sec. \_\_\_\_\_. LEGISLATIVE STUDY -- LIABILITY OF STATE  
44 OR COUNTY -- PERSONS WITH MENTAL ILLNESS OR MENTAL  
45 RETARDATION. The legislative council of the Iowa  
46 general assembly is requested to establish a  
47 legislative interim study committee during the 2000  
48 interim to review issues concerning whether the county  
49 or state should be liable for the payment of costs and  
50 expenses associated with the transferring and

S-5310

-2-

S-5310

Page 3

1 referring of a person to a state hospital or state  
2 hospital-school for mental illness or mental  
3 retardation who has been charged with a criminal  
4 offense. The committee shall consider proposals,  
5 including the mechanism established in sections 101  
6 and 102 of this Act, for determining when the county  
7 or the state should be liable and, if applicable, for  
8 determining which county should be liable. The  
9 legislative interim study committee should issue a  
10 report to the general assembly by January 1, 2001,  
11 concerning its findings and recommendations."

12 5. Page 10, line 17, by inserting after the word  
13 "hearings," the following: "requesting an interim  
14 study,".

15 6. By renumbering as necessary.

By JEFF ANGELO

*W/D 4-10-00 (p. 1085)*

S-5310 FILED MARCH 30, 2000

## HOUSE FILE 2519

S-5334

1 Amend the amendment, S-5165, to House File 2519, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. By striking page 9, line 42, through page 10,  
5 line 4.

6 2. Page 10, line 14, by inserting after the word  
7 "officers," the following: "and".

8 3. Page 10, by striking lines 15 through 18 and  
9 inserting the following: "vice chairperson for the  
10 board of parole."

By ROBERT E. DVORSKY  
JEFF ANGELO

S-5334 FILED APRIL 4, 2000

*o/o 4/10/00 (p. 1085)*

## HOUSE FILE 2519

S-5326

1 Amend the amendment, S-5165, to House File 2519, as  
2 passed by the House, as follows:

3 1. Page 9, by inserting after line 41 the  
4 following:

5 "Sec. 101. Section 907.8A, Code Supplement 1999,  
6 is amended to read as follows:

7 907.8A ~~SIXTH~~ JUDICIAL DISTRICT PILOT PROJECT --  
8 DETERMINATION OF ISSUES DURING PROBATIONARY PERIOD.

9 1. Except as otherwise provided, the probation  
10 violation sanctioning jurisdiction of the court in the  
11 sixth judicial district selected by the department of  
12 corrections to participate in a pilot probation  
13 revocation project shall be transferred to an  
14 administrative parole and probation judge upon entry  
15 of the sentencing order for each person who is  
16 sentenced to the custody of the director of the  
17 department of corrections and whose sentence is  
18 suspended. The court shall retain jurisdiction to  
19 establish the amount of restitution, approve the plan  
20 of restitution, and for reconsideration of the  
21 original sentence. The court shall also retain  
22 jurisdiction for arrest warrants, initial appearances,  
23 preliminary probation violation informations, bond  
24 proceedings, violations of restitution plans, and  
25 appointment of counsel. If a person is not sentenced  
26 to the custody of the director of the department of  
27 corrections the court shall retain the jurisdiction  
28 over matters relating to those cases.

29 2. All issues relating to whether the probationer  
30 has violated or fulfilled the terms and conditions of  
31 probation, including but not limited to express  
32 violations of a specific term of probation, new  
33 violations of the law, and changes of the term of  
34 probation as provided in sections 907.7, 908.11, and  
35 910.4, which would otherwise be determined by the  
36 court, shall be determined instead by an  
37 administrative parole and probation judge. The  
38 administrative parole and probation judge, who shall  
39 be an attorney, shall be appointed by the board of  
40 parole, notwithstanding chapter 17A. The costs of  
41 employing the administrative parole and probation  
42 judge shall be borne by the board of parole.

43 A probation hearing conducted by an administrative  
44 parole and probation judge shall be conducted in the  
45 same manner as hearings regarding revocations or  
46 modifications of or discharge from parole. The  
47 hearing may be conducted electronically. The  
48 probation officer shall notify the county attorney at  
49 least five days prior to any probation hearing. The  
50 interests of the state shall be represented by the

S-5326

S-5326

Page 2

1 probation officer at the probation hearing, unless the  
2 county attorney or the county attorney's designee  
3 elects to assist the probation officer. The board of  
4 parole, the department of corrections, and the clerk of  
5 of the district court in the ~~sixth~~ judicial district  
6 selected by the department of corrections to  
7 participate in the pilot probation revocation project  
8 shall devise and implement a system for the filing of  
9 documents and records of probation hearings conducted  
10 under this section. The system shall allow for the  
11 electronic filing of records and documents where  
12 electronic filing is practicable.

13 3. Appeals from orders of the administrative  
14 parole and probation judge which pertain to the  
15 revocations or modifications of or discharge from  
16 probation shall be conducted in the manner provided in  
17 rules adopted by the board of parole.

18 Sec. 102. Section 908.11, subsections 4 and 5,  
19 Code 1999, are amended to read as follows:

20 4. If the person who is believed to have violated  
21 the conditions of probation was sentenced and placed  
22 on probation in the ~~sixth~~ judicial district selected  
23 by the department of corrections to participate in the  
24 pilot probation revocation project under section  
25 907.8A, or jurisdiction over the person was  
26 transferred to the ~~sixth~~ judicial district selected by  
27 the department of corrections to participate in the  
28 pilot probation revocation project as a result of  
29 transfer of the person's probation supervision, the  
30 functions of the liaison officer and the board of  
31 parole may be performed by the administrative parole  
32 and probation judge as provided in section 907.8A.

33 5. If the probation officer proceeds by arrest and  
34 section 907.8A applies, the administrative parole and  
35 probation judge may conduct the probable cause hearing  
36 and probation revocation hearing. The probable cause  
37 hearing and probation revocation hearing may, at the  
38 discretion of the administrative parole and probation  
39 judge, be merged into a single hearing when it appears  
40 that the alleged violator will not be prejudiced by  
41 the merger. An administrative parole and probation  
42 judge may conduct any or all appearances or hearings  
43 electronically or by telephone. An administrative  
44 parole and probation judge may reconsider a person's  
45 sentence in the manner provided in sections 902.4 and  
46 903.2 if reconsideration is deemed appropriate and the  
47 person's probation was revoked by an administrative  
48 parole and probation judge in the ~~sixth~~ judicial  
49 district selected by the department of corrections to  
50 participate in the pilot probation revocation project.

S-5326

-2-



1 The sheriff shall coordinate and provide  
2 transportation and security for probation hearings  
3 conducted by an administrative parole and probation  
4 judge.

5 Sec. \_\_\_\_\_. 1998 Iowa Acts, chapter 1197, section  
6 11, is repealed."

7 2. Page 10, by inserting after line 1 the  
8 following:

9 "Sec. \_\_\_\_\_. PILOT PROJECT EVALUATIONS.

10 1. The division of criminal and juvenile justice  
11 planning of the department of human rights, in  
12 cooperation with the court, prosecutors, and community  
13 corrections personnel of the sixth judicial district  
14 and representatives of the board of parole, shall  
15 conduct an evaluation of the effectiveness of the  
16 sixth judicial district probation pilot project. The  
17 evaluation shall include but shall not be limited to a  
18 comparative assessment of the effect of the use of an  
19 administrative parole and probation judge on the  
20 efficient processing of cases, sentences imposed,  
21 number of revocations, and offender compliance with  
22 sentence terms in the sixth judicial district. The  
23 evaluation shall be submitted in a report to the  
24 general assembly which convenes in January 2001, or,  
25 if the department of corrections selects the sixth  
26 judicial district to participate in the pilot  
27 probation revocation project until June 30, 2002, to  
28 the general assembly which convenes in January 2003.

29 2. If the department of corrections selects a  
30 judicial district other than the sixth judicial  
31 district to participate in the pilot probation  
32 revocation project until June 30, 2002, the division  
33 of criminal and juvenile justice planning of the  
34 department of human rights, in cooperation with the  
35 court, prosecutors, and community corrections  
36 personnel of the judicial district selected and  
37 representatives of the board of parole, shall conduct  
38 an evaluation of the effectiveness of the probation  
39 pilot project for the selected judicial district. The  
40 evaluation shall include but shall not be limited to a  
41 comparative assessment of the effect of the use of an  
42 administrative parole and probation judge on the  
43 efficient processing of cases, sentences imposed,  
44 number of revocations, and offender compliance with  
45 sentence terms in the selected judicial district. The  
46 evaluation shall be submitted in a report to the  
47 general assembly which convenes in January 2003.

48 Sec. \_\_\_\_\_. Sections 101 and 102 of this Act are  
49 repealed June 30, 2002."

50 3. Page 10, lines 15 and 16, by striking the

1 words "delayed repeal of the sixth".

2 4. By renumbering as necessary.

By ROBERT E. DVORSKY  
JEFF ANGELO

W/D 4/10/00 (P. 1045)

## HOUSE FILE 2519

S-5345

1 Amend the amendment, S-5165, to House File 2519, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. By striking page 2, line 46, through page 4,  
5 line 26 and inserting the following:

6 "Sec. \_\_\_\_ . Section 222.60, unnumbered paragraph 1,  
7 Code 1999, is amended to read as follows:

8 All necessary and legal expenses for the cost of  
9 admission or commitment, including expenses incurred  
10 pursuant to section 812.5, or for the treatment,  
11 training, instruction, care, habilitation, support and  
12 transportation of persons with mental retardation, as  
13 provided for in the county management plan provisions  
14 implemented pursuant to section 331.439, subsection 1,  
15 in a state hospital-school, or in a special unit, or  
16 any public or private facility within or without the  
17 state, approved by the director of the department of  
18 human services, shall be paid by either:"

19 2. By striking page 4, line 43, through page 5,  
20 line 43 and inserting the following:

21 "Sec. \_\_\_\_ . Section 230.1, subsection 1, unnumbered  
22 paragraph 1, Code Supplement 1999, is amended to read  
23 as follows:

24 The necessary and legal costs and expenses  
25 attending the taking into custody, care,  
26 investigation, admission, commitment, including civil  
27 commitment pursuant to section 812.5, and support of a  
28 person with mental illness admitted or committed to a  
29 state hospital shall be paid by a county or by the  
30 state as follows:"

31 3. Page 6, by striking lines 10 through 30.

32 4. Page 10, by inserting after line 1 the  
33 following:

34 "Sec. 101. PERSONS WITH MENTAL RETARDATION --  
35 LIABILITY OF COUNTY AND STATE.

36 1. Notwithstanding any provision of section 222.60  
37 to the contrary, all necessary and legal expenses for  
38 the cost of admission or commitment, including  
39 expenses incurred pursuant to section 812.5, or for  
40 the treatment, training, instruction, care,  
41 habilitation, support, and transportation of an  
42 eligible person with mental retardation shall be paid  
43 by the county in which such person has a legal  
44 settlement as defined in section 252.16, or, if such  
45 person has no legal settlement or when such settlement  
46 is unknown, by the state. The provisions of section  
47 222.60 not inconsistent with this section shall apply  
48 to this section.

49 2. For purposes of this section, an "eligible  
50 person with mental retardation" means a person with

S-5345

S-5345

Page 2

1 mental retardation who has been charged with a  
2 criminal offense and who is transferred or referred to  
3 a state hospital-school or state hospital for any of  
4 the following reasons:

5 a. A diagnosis or recommendation as part of the  
6 pretrial or presentence procedure.

7 b. A determination of mental competency or,  
8 pursuant to Iowa rule of criminal procedure 21, a  
9 placement of a defendant.

10 c. A determination of competency to stand trial, a  
11 determination of a defendant's dangerousness, or a  
12 commitment as mentally incompetent to stand trial  
13 pursuant to section 812.4.

14 d. A diagnosis, evaluation, or treatment for a  
15 prisoner transferred from a county or city jail.

16 3. The single entry point process established by a  
17 county under section 331.440 shall not apply to this  
18 section and a court is not required to seek  
19 authorization through the single entry point process  
20 prior to transferring or referring an eligible person  
21 with mental retardation to a state hospital-school or  
22 state hospital for any reason described in subsection  
23 2, paragraphs "a" through "d".

24 4. This section is repealed June 30, 2001.

25 Sec. 102. PERSONS WITH MENTAL ILLNESS -- LIABILITY  
26 OF COUNTY AND STATE.

27 1. Notwithstanding any provision of section 230.1  
28 to the contrary, the necessary and legal costs and  
29 expenses attending the taking into custody, care,  
30 investigation, admission, commitment, including civil  
31 commitment pursuant to section 812.5, and support of  
32 an eligible person with mental illness shall be paid  
33 by a county in which such person has a legal  
34 settlement; or, if such person has no legal settlement  
35 in this state or the person's legal settlement is  
36 unknown, by the state. The provisions of section  
37 230.1 not inconsistent with this section shall apply  
38 to this section.

39 2. For purposes of this section, an "eligible  
40 person with mental illness" means a person with mental  
41 illness who has been charged with a criminal offense  
42 and who is transferred or referred to a state hospital  
43 for any of the following reasons:

44 a. A psychosocial diagnosis or recommendation as  
45 part of the pretrial or presentence procedure.

46 b. A determination of mental competency or,  
47 pursuant to Iowa rule of criminal procedure 21, a  
48 placement of a defendant.

49 c. A determination of competency to stand trial, a  
50 determination of a defendant's dangerousness, or a

S-5345

-2-

S-5345

Page 3

1 commitment as mentally incompetent to stand trial  
2 pursuant to section 812.4.

3 d. A diagnosis, evaluation, or treatment for  
4 mental illness for a prisoner transferred from a  
5 county or city jail.

6 3. The single entry point process established by a  
7 county under section 331.440 shall not apply to this  
8 section and a court is not required to seek  
9 authorization through the single entry point process  
10 prior to transferring or referring an eligible person  
11 with mental illness to a state hospital for any reason  
12 described in subsection 2, paragraphs "a" through "d".

13 4. This section is repealed June 30, 2001.

14 Sec. \_\_\_\_ . LEGISLATIVE STUDY -- LIABILITY OF STATE  
15 OR COUNTY -- PERSONS WITH MENTAL ILLNESS OR MENTAL  
16 RETARDATION. The legislative council of the Iowa  
17 general assembly is requested to establish a  
18 legislative interim study committee during the 2000  
19 interim to review issues concerning whether the county  
20 or state should be liable for the payment of costs and  
21 expenses associated with the transferring and  
22 referring of a person to a state hospital or state  
23 hospital-school for mental illness or mental  
24 retardation who has been charged with a criminal  
25 offense. The committee shall consider proposals,  
26 including the mechanism established in sections 101  
27 and 102 of this Act, for determining when the county  
28 or the state should be liable and, if applicable, for  
29 determining which county should be liable. The  
30 legislative interim study committee should issue a  
31 report to the general assembly by January 1, 2001,  
32 concerning its findings and recommendations."

33 5. Page 10, line 17, by inserting after the word  
34 "hearings," the following: "requesting an interim  
35 study,".

36 6. By renumbering as necessary.

By JEFF ANGELO

S-5345 FILED APRIL 5, 2000

*Adopted*

*4-10-00*

*(P.1085)*

## SENATE AMENDMENT TO HOUSE FILE 2519

H-8806

1 Amend House File 2519, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 80D.1, Code 1999, is amended  
6 to read as follows:

7 80D.1 ESTABLISHMENT OF A FORCE OF RESERVE PEACE  
8 OFFICERS.

9 The governing body of a city, a county, or the  
10 state of Iowa, or a judicial district department of  
11 correctional services may provide, either separately  
12 or collectively through a chapter 28E agreement, for  
13 the establishment of a force of reserve peace  
14 officers, and may limit the size of the reserve force.  
15 In the case of the state, the department of public  
16 safety shall act as the governing body.

17 This chapter constitutes the only procedure for  
18 appointing reserve peace officers.

19 Sec. 2. Section 80D.6, Code 1999, is amended to  
20 read as follows:

21 80D.6 STATUS OF RESERVE PEACE OFFICERS.

22 Reserve peace officers shall serve as peace  
23 officers on the orders and at the discretion of the  
24 chief of police, sheriff, or commissioner of public  
25 safety or the commissioner's designee, or director of  
26 the judicial district department of correctional  
27 services or the director's designee, as the case may  
28 be.

29 While in the actual performance of official duties,  
30 reserve peace officers shall be vested with the same  
31 rights, privileges, obligations, and duties as any  
32 other peace officers.

33 Sec. 3. Section 80D.7, Code 1999, is amended to  
34 read as follows:

35 80D.7 CARRYING WEAPONS.

36 A member of a reserve force shall not carry a  
37 weapon in the line of duty until the member has been  
38 approved by the governing body and certified by the  
39 Iowa law enforcement academy council to carry weapons.  
40 After approval and certification, a reserve peace  
41 officer may carry a weapon in the line of duty only  
42 when authorized by the chief of police, sheriff, or  
43 commissioner of public safety or the commissioner's  
44 designee, or director of the judicial district  
45 department of correctional services or the director's  
46 designee, as the case may be.

47 Sec. 4. Section 80D.9, Code 1999, is amended to  
48 read as follows:

49 80D.9 SUPERVISION OF RESERVE PEACE OFFICERS.

50 Reserve peace officers shall be subordinate to

H-8806

H-8806

Page 2

1 regular peace officers, shall not serve as peace  
2 officers unless under the direction of regular peace  
3 officers, and shall wear a uniform prescribed by the  
4 chief of police, sheriff, or commissioner of public  
5 safety, or director of the judicial district  
6 department of correctional services unless that  
7 superior officer designates alternate apparel for use  
8 when engaged in assignments involving special  
9 investigation, civil process, court duties, jail  
10 duties and the handling of mental patients. The  
11 reserve peace officer shall not wear an insignia of  
12 rank. Each department for which a reserve force is  
13 established shall appoint a regular force peace  
14 officer as the reserve force co-ordinating and  
15 supervising officer. That regular peace officer shall  
16 report directly to the chief of police, sheriff, or  
17 commissioner of public safety or the commissioner's  
18 designee, or director of the judicial district  
19 department of correctional services or the director's  
20 designee, as the case may be.

21 Sec. 5. Section 80D.11, Code 1999, is amended to  
22 read as follows:

23 80D.11 EMPLOYEE -- PAY.

24 While performing official duties, each reserve  
25 peace officer shall be considered an employee of the  
26 governing body which the officer represents and shall  
27 be paid a minimum of one dollar per year. The  
28 governing body of a city, a county, or the state, or a  
29 judicial district department of correctional services  
30 may provide additional monetary assistance for the  
31 purchase and maintenance of uniforms and equipment  
32 used by reserve peace officers.

33 Sec. 6. Section 222.60, unnumbered paragraph 1,  
34 Code 1999, is amended to read as follows:

35 All necessary and legal expenses for the cost of  
36 admission or commitment, including expenses incurred  
37 pursuant to section 812.5, or for the treatment,  
38 training, instruction, care, habilitation, support and  
39 transportation of persons with mental retardation, as  
40 provided for in the county management plan provisions  
41 implemented pursuant to section 331.439, subsection 1,  
42 in a state hospital-school, or in a special unit, or  
43 any public or private facility within or without the  
44 state, approved by the director of the department of  
45 human services, shall be paid by either:

46 Sec. 7. Section 226.30, Code 1999, is amended to  
47 read as follows:

48 226.30 TRANSFER OF DANGEROUS PATIENTS.

49 When a patient of any hospital for persons with  
50 mental illness becomes incorrigible, and unmanageable

H-8806

-2-

H-8806

Page 3

1 to such an extent that the patient is dangerous to the  
2 safety of others in the hospital, the administrator,  
3 following review and approval of the director of the  
4 department of corrections, may apply in writing to the  
5 district court or to any judge thereof, of the county  
6 in which the hospital is situated, for an order to  
7 transfer the patient to the Iowa medical and  
8 classification center and if the order is granted the  
9 patient shall be so transferred. The county attorney  
10 of the county shall appear in support of the  
11 application on behalf of the administrator.

12 Sec. 8. Section 230.1, subsection 1, unnumbered  
13 paragraph 1, Code Supplement 1999, is amended to read  
14 as follows:

15 The necessary and legal costs and expenses  
16 attending the taking into custody, care,  
17 investigation, admission, commitment, including civil  
18 commitment pursuant to section 812.5, and support of a  
19 person with mental illness admitted or committed to a  
20 state hospital shall be paid by a county or by the  
21 state as follows:

22 Sec. 9. Section 704.8, Code 1999, is amended to  
23 read as follows:

24 704.8 ESCAPE FROM PLACE OF CONFINEMENT.

25 A correctional officer or peace officer is  
26 justified in using reasonable force, including deadly  
27 force, which is necessary to prevent the escape of any  
28 person from any jail, penal institution, correctional  
29 facility, or similar place of confinement, or place of  
30 trial or other judicial proceeding, or to prevent the  
31 escape from custody of any person who is being  
32 transported from any such place of confinement, trial  
33 or judicial proceeding to any other such place, except  
34 that deadly force may not be used to prevent the  
35 escape of one who the correctional officer or peace  
36 officer knows ~~or should know~~ is confined on a charge  
37 or conviction of any class of misdemeanor.

38 Sec. 10. Section 904.202, Code 1999, is amended to  
39 read as follows:

40 904.202 INTAKE AND CLASSIFICATION CENTER.

41 The director may provide facilities and personnel  
42 for a diagnostic intake and classification center.  
43 The work of the center shall include a scientific  
44 study of each inmate, the inmate's career and life  
45 history, the causes of the inmate's criminal acts and  
46 recommendations for the inmate's custody, care,  
47 training, employment, and counseling with a view to  
48 rehabilitation and to the protection of society. To  
49 facilitate the work of the center and to aid in the  
50 rehabilitation of the inmates, the trial judge,

H-8806

-3-

H-8806

Page 4

1 prosecuting attorney, and presentence investigators  
2 shall furnish the director upon request with any  
3 previously authorized presentence investigation report  
4 and a full statement of facts and circumstances  
5 attending the commission of the offense so far as  
6 known or believed by them. If the department develops  
7 and utilizes an inmate classification system, it must,  
8 within a reasonable time, present evidence from  
9 independent experts as to the effectiveness and  
10 validity of the classification system.

11 Sec. 11. Section 904.405, Code 1999, is amended to  
12 read as follows:

13 904.405 TRANSCRIPT OF TESTIMONY.

14 The director shall cause the testimony taken at the  
15 investigation to be transcribed and recorded. The  
16 recording of the testimony shall not be transcribed  
17 unless the testimony is part of a case that is  
18 appealed or an interested party requests a transcript.  
19 The recording of the testimony, or the transcription  
20 thereof, shall be filed and maintained in the  
21 director's office at the seat of government within ten  
22 days after the testimony is taken, or as soon as  
23 practicable, and when filed the testimony shall be  
24 open for the inspection of any person for at least  
25 five years from the date the testimony is taken or the  
26 date of a final decision in a case involving the  
27 testimony, whichever is later.

28 Sec. 12. Section 904.508, subsections 1 and 2,  
29 Code 1999, are amended to read as follows:

30 1. The superintendent of each institution shall  
31 receive and care for any property an inmate may  
32 possess on the inmate's person upon entering the  
33 institution, and on the discharge of the inmate,  
34 return the property to the inmate or the inmate's  
35 legal representatives, unless the property has been  
36 previously disposed of according to the inmate's  
37 written designation or policies prescribed by the  
38 board. ~~The superintendent may place an inmate's money~~  
39 ~~at interest, keeping an account of the money and~~  
40 ~~returning the remaining money upon discharge.~~

41 2. The director shall establish and maintain an  
42 inmate savings fund in an interest-bearing account for  
43 the deposit of all or part of an inmate's allowances,  
44 as provided in section 904.702. All or part of an  
45 inmate's allowances shall be deposited into the  
46 savings fund, until the inmate's deposit is equal to  
47 the amount due the inmate upon discharge, parole, or  
48 placement on work release, as provided in section  
49 906.9. If an inmate's deposits equal this amount, the  
50 inmate may voluntarily withdraw from the savings fund.

H-8806

-4-



H-8806

Page 5

1 The director shall notify the inmate of this right to  
2 withdraw and shall provide the inmate with a written  
3 request form to facilitate the withdrawal. If the  
4 inmate withdraws and the inmate's deposits exceed the  
5 amount due as provided in section 906.9, the director  
6 shall disburse the excess amount as provided for  
7 allowances under section 904.702, except the director  
8 shall not deposit the excess amount in the inmate  
9 savings fund. If the inmate chooses to continue to  
10 participate in the savings fund, the inmate's deposits  
11 shall be returned to the inmate upon discharge,  
12 parole, or placement on work release. Otherwise, the  
13 inmate's deposits shall be disposed of as provided in  
14 subsection 3. An inmate's deposits into the savings  
15 fund may be used to provide the money due the inmate  
16 upon discharge, parole, or placement on work release,  
17 as required under section 906.9. ~~Interest-earned-from-~~  
18 ~~the-savings-fund-shall-be-placed-in-a-separate~~  
19 ~~account,-and-may-be-used-for-purchases-approved-by-the~~  
20 ~~director-to-directly-and-collectively-benefit-inmates-~~

21 Sec. 13. Section 904.602, subsection 1, Code 1999,  
22 is amended by adding the following new paragraph:

23 NEW PARAGRAPH. m. Family and personal history if  
24 the individual is dead or has not received services  
25 from the department or the judicial district  
26 departments of correctional services for at least ten  
27 years prior to a request for the information.

28 Sec. 14. Section 904.602, subsection 2, paragraph  
29 h, Code 1999, is amended to read as follows:

30 h. Family and personal history if the individual  
31 is alive and has received services from the department  
32 or the judicial district departments of correctional  
33 services within the ten years preceding a request for  
34 the information.

35 Sec. 15. Section 904.809, subsection 2, paragraph  
36 b, Code Supplement 1999, is amended by adding the  
37 following new subparagraph:

38 NEW SUBPARAGRAPH. (3) The lease agreement shall  
39 establish a cost for the lease which shall take into  
40 consideration compensation for the amount of building  
41 space utilized compared to the cost of similar space  
42 leased outside the institution in the local community,  
43 maintenance costs, and modifications made to a  
44 correctional facility to accommodate the lessee such  
45 as payment of utilities and depreciation costs, and a  
46 pro rata cost of correctional officer supervision of  
47 inmates.

48 Sec. 16. Section 904.809, subsection 2, Code  
49 Supplement 1999, is amended by adding the following  
50 new paragraph:

H-8806

H-8806

Page 6

1 NEW PARAGRAPH. c. Effective July 1, 2001, a  
2 portion of moneys received pursuant to a lease  
3 negotiated pursuant to the requirements of this  
4 section shall be deposited in the general fund of the  
5 state and that portion of the moneys received  
6 representing the cost of building maintenance,  
7 modification, and utilities as it relates to the lease  
8 are deemed repayment receipts as defined in section  
9 8.2.

10 Sec. 17. Section 904A.1, Code 1999, is amended to  
11 read as follows:

12 904A.1 BOARD OF PAROLE.

13 The board of parole is created to consist of five  
14 members. Each member, except the chairperson and the  
15 vice chairperson, shall be compensated on a day-to-day  
16 basis. Each member shall serve a term of four years  
17 beginning and ending as provided by section 69.19,  
18 except for members appointed to fill vacancies who  
19 shall serve for the balance of the unexpired term.  
20 The terms shall be staggered. The chairperson and  
21 vice chairperson of the board shall be a full-time,  
22 salaried member members of the board. A majority of  
23 the members of the board constitutes a quorum to  
24 transact business.

25 Sec. 18. NEW SECTION. 904A.4C VICE CHAIRPERSON  
26 OF THE BOARD OF PAROLE.

27 The vice chairperson of the board of parole shall  
28 be appointed from the membership of the board of  
29 parole by the governor. The vice chairperson shall  
30 serve at the pleasure of the governor and shall have  
31 such responsibilities and duties as are determined by  
32 the chairperson. The vice chairperson shall act as  
33 the chairperson in the absence or disability of the  
34 chairperson or in the event of a vacancy in that  
35 office, until such time as a new chairperson is  
36 appointed by the governor.

37 Sec. 19. Section 904A.6, Code 1999, is amended to  
38 read as follows:

39 904A.6 SALARIES AND EXPENSES.

40 Each member, except the chairperson and the vice  
41 chairperson, of the board shall be paid per diem as  
42 determined by the general assembly. The chairperson  
43 and vice chairperson of the board shall be paid a  
44 salary as determined by the general assembly. Each  
45 member of the board and all employees are entitled to  
46 receive, in addition to their per diem or salary,  
47 their necessary maintenance and travel expenses while  
48 engaged in official business.

49 Sec. 20. 1998 Iowa Acts, chapter 1197, section 13,  
50 is amended to read as follows:

H-8806

**H-8806**

Page 7

1 SEC. 13. EFFECTIVE DATES -- REPEALS.

2 1. This division and Division I of this Act, being  
3 deemed of immediate importance, take effect upon  
4 enactment.

5 2. Division I of this Act is repealed June 30,  
6 ~~2000~~ 2002.

7 3. Division II of this Act takes effect July 1,  
8 ~~2000~~ 2002.

9 Sec. 21. PERSONS WITH MENTAL RETARDATION --  
10 LIABILITY OF COUNTY AND STATE.

11 1. Notwithstanding any provision of section 222.60  
12 to the contrary, all necessary and legal expenses for  
13 the cost of admission or commitment, including  
14 expenses incurred pursuant to section 812.5, or for  
15 the treatment, training, instruction, care,  
16 habilitation, support, and transportation of an  
17 eligible person with mental retardation shall be paid  
18 by the county in which such person has a legal  
19 settlement as defined in section 252.16, or, if such  
20 person has no legal settlement or when such settlement  
21 is unknown, by the state. The provisions of section  
22 222.60 not inconsistent with this section shall apply  
23 to this section.

24 2. For purposes of this section, an "eligible  
25 person with mental retardation" means a person with  
26 mental retardation who has been charged with a  
27 criminal offense and who is transferred or referred to  
28 a state hospital-school or state hospital for any of  
29 the following reasons:

30 a. A diagnosis or recommendation as part of the  
31 pretrial or presentence procedure.

32 b. A determination of mental competency or,  
33 pursuant to Iowa rule of criminal procedure 21, a  
34 placement of a defendant.

35 c. A determination of competency to stand trial, a  
36 determination of a defendant's dangerousness, or a  
37 commitment as mentally incompetent to stand trial  
38 pursuant to section 812.4.

39 d. A diagnosis, evaluation, or treatment for a  
40 prisoner transferred from a county or city jail.

41 3. The single entry point process established by a  
42 county under section 331.440 shall not apply to this  
43 section and a court is not required to seek  
44 authorization through the single entry point process  
45 prior to transferring or referring an eligible person  
46 with mental retardation to a state hospital-school or  
47 state hospital for any reason described in subsection  
48 2, paragraphs "a" through "d".

49 4. This section is repealed June 30, 2001.

50 Sec. 22. PERSONS WITH MENTAL ILLNESS -- LIABILITY

**H-8806**

H-8806

Page 8

1 OF COUNTY AND STATE.

2 1. Notwithstanding any provision of section 230.1  
3 to the contrary, the necessary and legal costs and  
4 expenses attending the taking into custody, care,  
5 investigation, admission, commitment, including civil  
6 commitment pursuant to section 812.5, and support of  
7 an eligible person with mental illness shall be paid  
8 by a county in which such person has a legal  
9 settlement; or, if such person has no legal settlement  
10 in this state or the person's legal settlement is  
11 unknown, by the state. The provisions of section  
12 230.1 not inconsistent with this section shall apply  
13 to this section.

14 2. For purposes of this section, an "eligible  
15 person with mental illness" means a person with mental  
16 illness who has been charged with a criminal offense  
17 and who is transferred or referred to a state hospital  
18 for any of the following reasons:

19 a. A psychosocial diagnosis or recommendation as  
20 part of the pretrial or presentence procedure.

21 b. A determination of mental competency or,  
22 pursuant to Iowa rule of criminal procedure 21, a  
23 placement of a defendant.

24 c. A determination of competency to stand trial, a  
25 determination of a defendant's dangerousness, or a  
26 commitment as mentally incompetent to stand trial  
27 pursuant to section 812.4.

28 d. A diagnosis, evaluation, or treatment for  
29 mental illness for a prisoner transferred from a  
30 county or city jail.

31 3. The single entry point process established by a  
32 county under section 331.440 shall not apply to this  
33 section and a court is not required to seek  
34 authorization through the single entry point process  
35 prior to transferring or referring an eligible person  
36 with mental illness to a state hospital for any reason  
37 described in subsection 2, paragraphs "a" through "d".

38 4. This section is repealed June 30, 2001.

39 Sec. 23. LEGISLATIVE STUDY -- LIABILITY OF STATE  
40 OR COUNTY -- PERSONS WITH MENTAL ILLNESS OR MENTAL  
41 RETARDATION. The legislative council of the Iowa  
42 general assembly is requested to establish a  
43 legislative interim study committee during the 2000  
44 interim to review issues concerning whether the county  
45 or state should be liable for the payment of costs and  
46 expenses associated with the transferring and  
47 referring of a person to a state hospital or state  
48 hospital-school for mental illness or mental  
49 retardation who has been charged with a criminal  
50 offense. The committee shall consider proposals,

H-8806

-8-

H-8806

Page 9

1 including the mechanism established in sections 22 and  
 2 23 of this Act, for determining when the county or the  
 3 state should be liable and, if applicable, for  
 4 determining which county should be liable. The  
 5 legislative interim study committee should issue a  
 6 report to the general assembly by January 1, 2001,  
 7 concerning its findings and recommendations.

8 Sec. 24. EFFECTIVE DATE. Section 20 of this Act,  
 9 being deemed of immediate importance, takes effect  
 10 upon enactment."

11 2. Title page, by striking lines 1 through 5 and  
 12 inserting the following: "An Act relating to the  
 13 department of corrections and concerning the  
 14 establishment of reserve peace officers, the transfer  
 15 of patients to the Iowa medical and classification  
 16 center, the transcription and recording of testimony  
 17 in certain departmental investigations, inmate  
 18 accounts and work programs, the receipt and release of  
 19 certain records by the department, the use of force by  
 20 correctional or peace officers, the establishment of a  
 21 vice chairperson for the board of parole, the delayed  
 22 repeal of the sixth judicial district pilot project  
 23 concerning probation revocation hearings, requesting  
 24 an interim study, and providing an effective date."

25 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8806 FILED APRIL 11, 2000

*4-26-00 House Refused*  
*4-26-00 Senate Recedes*

HOUSE FILE 2519  
FISCAL NOTEREQUESTED BY  
SENATOR SZYMONIAK

---

A fiscal note for Amendment S-5310 to Amendment S-5165 to House File 2519 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

Senate Amendment S-5310 amends Senate Amendment S-5165. Senate Amendment S-5165 strikes everything after the enacting clause in HF 2519 (Probation Revocation Hearings) and inserts language dealing with reserve peace officers, costs paid by counties and the State for diagnosis and evaluations of persons for mental illness and retardation by the Department of Human Services (DHS) and the Department of Corrections (DOC), handling of information by the DOC, and the Vice-Chairperson position within the Board of Parole.

Senate Amendment S-5310 strikes the language dealing with county and state liability for diagnoses and evaluations by the DHS and DOC and inserts other language on the same topic. The new language deals with individuals who are mentally retarded or mentally ill, charged with a crime, and referred to a state hospital-school or state hospital for evaluation or diagnosis associated with a pretrial or presentence investigation, determination of mental competency, and treatment for a county or city jail prisoner. The primary change is that counties pay costs of these evaluation services when ordered by a judge without utilizing the DHS single point entry process.

The language dealing with county and State liability is repealed on June 30, 2001.

Amendment S-5310 also requests the Legislative Council to authorize an interim study of these policy issues.

**ASSUMPTIONS**

1. Amendment S-5310 affects the billings for services by the DHS and the DOC to counties that are subsequently denied by the counties.
2. The DHS reports total outstanding billings of \$465,000 as of February 2000 that have been denied by the counties.
3. The DOC reports total outstanding billings of \$142,000 as of September 1999. The average annual billings denied by the counties for the DOC is \$63,000.
4. For estimation purposes, the ratio of annual billings disputed to total outstanding billings will be assumed to be 44.4%, which is the DOC ratio.
5. The Iowa State Association of Counties reports \$661,000 in outstanding billings from the DHS and DOC for nine counties representing 20.4% of the Iowa population. Some of these billings will be accepted by DHS and DOC as State responsibilities. It cannot be determined from the county data the amount of the billings that will be affected by this Amendment.
6. The changes in Amendment S-5310 apply only to the billings issued during FY 2001.

**FISCAL IMPACT**

The effects of Amendment S-5310 cannot be determined. However, using the billing records from the DHS and DOC and the above assumptions, Amendment S-5310 is expected to result in increased revenues to the State from counties' disputed billings by DHS and DOC. An estimated \$207,000 would be collected from the counties' disputed billings by DHS and either would be deposited into the General Fund or into the operating budgets for the facilities with net budgeting. The DOC would collect \$63,000 in disputed billings which would be deposited into the General Fund.

If the outstanding billings identified by the Iowa State Association of Counties for nine counties are representative of the outstanding billings for the whole State, then the outstanding billings for FY 2001 is calculated to be \$1.4 million, assuming the same ratio of annual billings to total billings. An unknown portion of this amount will be accepted by DHS and DOC as the State's responsibility in FY 2001.

**SOURCES**

Department of Human Services  
Department of Corrections  
Iowa State Association of Counties  
Office of the Attorney General

(LSB 5413HV, MDF)

FILED APRIL 6, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 2519  
FISCAL NOTE**

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A fiscal note for **Senate Amendment H-8806** to **House File 2519** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

Senate Amendment H-8806 amends HF 2519 by striking everything after the enacting clause and inserting language dealing with reserve peace officers, handling of information by the Department of Corrections, the Vice-Chairperson position within the Board of Parole, extension of the Probation Revocation Pilot Project in the Sixth Community-Based Corrections District, and other technical and nonsubstantive changes.

The sections of Amendment H-8806 that have a potentially significant fiscal impact (1) clarify the costs to be paid by counties and the State for diagnosis and evaluations of persons charged with a crime for mental illness and retardation by the Department of Human Services (DHS) and the Department of Corrections (DOC) and (2) require recovery of costs for space within a prison leased to private sector companies employing inmates. The language dealing with county and State liability is repealed on June 30, 2001.

Amendment H-8806 also requests the Legislative Council to authorize an interim study of the policy issues dealing with the counties' and State's liability for psychiatric evaluations of persons charged with a crime.

**ASSUMPTIONS**

1. Amendment H-8806 affects the billings for services by the DHS and the DOC to counties that are subsequently denied by the counties.
2. The DHS reports total outstanding billings of \$465,000 as of February 2000 that have been denied by the counties.
3. The DOC reports total outstanding billings of \$142,000 as of September 1999. The average annual billings denied by the counties for the DOC is \$63,000.
4. For estimation purposes, the ratio of annual billings disputed to total outstanding billings will be assumed to be 44.4%, which is the DOC ratio.
5. The Iowa State Association of Counties reports \$661,000 in outstanding billings from the DHS and DOC for nine counties representing 20.4% of the Iowa population. Some of these billings will be accepted by DHS and DOC as State responsibilities. It cannot be determined from the county data the amount of the billings that will be affected by this Amendment.
6. The changes in Amendment H-8806 apply only to the billings issued during FY 2001.
7. Free or low cost space provided to private companies employing inmates serves as an inducement for the companies to operate within the prison setting.

**FISCAL IMPACT**



-2-

The effects of Amendment H-8806 cannot be determined. However, using the billing records from the DHS and DOC and the above assumptions, Amendment H-8806 is expected to result in increased revenues to the State from counties' disputed billings by DHS and DOC. An estimated \$207,000 would be collected from the counties' disputed billings by DHS and either would be deposited into the General Fund or into the operating budgets for the facilities with net budgeting. The DOC would collect \$63,000 in disputed billings which would be deposited into the General Fund.

If the outstanding billings identified by the Iowa State Association of Counties for nine counties are representative of the outstanding billings for the whole State, then the outstanding billings for FY 2001 are calculated to be \$1.4 million, assuming the same ratio of annual billings to total billings. An unknown portion of this amount will be accepted by DHS and DOC as the State's responsibility in FY 2001.

Charging private sector companies for space would discourage companies from operating within the prisons. The revenues from the leased space would increase revenues for the General Fund, but the loss of inmate employers would reduce revenues to the General Fund from the Pay-for-Stay Program. The impact on the General Fund from this change cannot be determined.

#### SOURCES

Department of Human Services  
Department of Corrections  
Iowa State Association of Counties  
Office of the Attorney General

(LSB 5413hv.2, MDF)

FILED APRIL 13, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

who shall serve for the balance of the unexpired term. The terms shall be staggered. The chairperson and vice chairperson of the board shall be a full-time, salaried member members of the board. A majority of the members of the board constitutes a quorum to transact business.

Sec. 2. NEW SECTION. 904A.4C VICE CHAIRPERSON OF THE BOARD OF PAROLE.

The vice chairperson of the board of parole shall be appointed from the membership of the board of parole by the governor. The vice chairperson shall serve at the pleasure of the governor and shall have such responsibilities and duties as are determined by the chairperson. The vice chairperson shall act as the chairperson in the absence or disability of the chairperson or in the event of a vacancy in that office, until such time as a new chairperson is appointed by the governor.

Sec. 3. Section 904A.6, Code 1999, is amended to read as follows:

904A.6 SALARIES AND EXPENSES.

Each member, except the chairperson and the vice chairperson, of the board shall be paid per diem as determined by the general assembly. The chairperson and vice chairperson of the board shall be paid a salary as determined by the general assembly. Each member of the board and all employees are entitled to receive, in addition to their per diem or salary, their necessary maintenance and travel expenses while engaged in official business.

Sec. 4. 1998 Iowa Acts, chapter 1197, section 13, is amended to read as follows:

SEC. 13. EFFECTIVE DATES -- REPEALS.

1. This division and Division I of this Act, being deemed of immediate importance, take effect upon enactment.
2. Division I of this Act is repealed June 30, ~~2000~~ 2002.
3. Division II of this Act takes effect July 1, ~~2000~~ 2002.

HOUSE FILE 2519

AN ACT

RELATING TO PROBATION AND PAROLE BY EXTENDING THE REPEAL OF THE SIXTH JUDICIAL DISTRICT PILOT PROJECT CONCERNING PROBATION REVOCATION HEARINGS AND BY ESTABLISHING THE POSITION OF VICE CHAIRPERSON OF THE BOARD OF PAROLE, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 904A.1, Code 1999, is amended to read as follows:

904A.1 BOARD OF PAROLE.

The board of parole is created to consist of five members. Each member, except the chairperson and the vice chairperson, shall be compensated on a day-to-day basis. Each member shall serve a term of four years beginning and ending as provided by section 69.19, except for members appointed to fill vacancies

House File 2519, p. 3

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

---

BRENT SIEGRIST  
Speaker of the House

---

MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2519, Seventy-eighth General Assembly.

---

ELIZABETH ISAACSON  
Chief Clerk of the House

Approved 5/9, 2000

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THOMAS J. VILSACK  
Governor