

MAR 4 2003
Place On Calendar

HOUSE FILE 400
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 90)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to conducting searches of persons on probation or
2 parole and providing information to local law enforcement
3 agencies and the state department of transportation.

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

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HF-400

1 Section 1. Section 906.4, Code 2003, is amended by adding
2 the following new unnumbered paragraph after unnumbered
3 paragraph 3:

4 NEW UNNUMBERED PARAGRAPH. The board as a condition of
5 parole or work release may, and if the person is released
6 pursuant to a plan of early release shall, require that the
7 person submit to a search of the person, the person's
8 property, place of residence, vehicle, or personal effects, at
9 any time, if reasonable suspicion exists, by any peace
10 officer. For purposes of this section, "peace officer" means
11 those officers designated under section 801.4.

12 Sec. 2. NEW SECTION. 906.5A INFORMATION PROVIDED TO
13 STATE DEPARTMENT OF TRANSPORTATION AND LAW ENFORCEMENT
14 AGENCIES.

15 The board of parole shall notify the local law enforcement
16 agency with jurisdiction over the area where a person is
17 paroled and the state department of transportation of
18 conditions of the person's release requiring the person to
19 submit to a search as provided in section 906.4 or 907.6. The
20 state department of transportation shall release such
21 information to a law enforcement agency as provided in section
22 321.11.

23 Sec. 3. Section 907.6, Code 2003, is amended to read as
24 follows:

25 907.6 CONDITIONS OF PROBATION -- REGULATIONS.

26 Probationers are subject to the conditions established by
27 the judicial district department of correctional services
28 subject to the approval of the court, and any additional
29 reasonable conditions which the court or district department
30 may impose to promote rehabilitation of the defendant or
31 protection of the community. Conditions may include but are
32 not limited to adherence to regulations generally applicable
33 to persons released on parole and including requiring unpaid
34 community service as allowed pursuant to section 907.13, or
35 being subjected to searches pursuant to section 906.4. The

1 district department assigned to supervise the probationer
2 shall notify the local law enforcement agency with
3 jurisdiction over the area where the probationer resides and
4 the state department of transportation of conditions of the
5 probationer's release requiring the probationer to submit to a
6 search as provided in this section. The state department of
7 transportation shall release such information to a law
8 enforcement agency as provided in section 321.11.

9 EXPLANATION

10 This bill relates to conducting searches of persons on
11 probation or parole.

12 The bill provides that as a condition of probation or
13 parole, a person may be subjected to searches of the person,
14 the person's property, place of residence, vehicle, or
15 personal effects, at any time, if reasonable suspicion exists,
16 by any peace officer. For purposes of this bill, "peace
17 officer" means those officers designated under Code section
18 801.4.

19 The bill requires the board of parole or a judicial
20 district department of correctional services to provide a
21 local law enforcement agency with jurisdiction over the area
22 where the parolee or probationer resides with information
23 regarding the condition of parole or probation. The bill also
24 requires the board of parole or the judicial district
25 department to provide the information to the state department
26 of transportation. The bill requires the department of
27 transportation to release the information as provided in Code
28 section 321.11.

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HOUSE FILE 400

H-1040

- 1 Amend House File 400 as follows:
- 2 1. Page 1, line 10, by inserting after the word
- 3 "officer." the following: "However, if exigent
- 4 circumstances do not exist, a peace officer shall
- 5 obtain permission from the district department
- 6 assigned to supervise the person before conducting a
- 7 search pursuant to this paragraph."

By HOGG of Linn

H-1040 FILED MARCH 10, 2003

deferred 3/25/03 - out of order

HOUSE FILE 400

H-1084

- 1 Amend House File 400 as follows:
- 2 1. Page 1, line 10, by inserting after the word
- 3 "officer." the following: "However, this paragraph
- 4 only applies to a person on parole or work release for
- 5 a felony."
- 6 2. Page 1, line 34, by inserting after the word
- 7 "or" the following: "if on probation for a
- 8 felony,".
- 9 3. Title page, line 1, by striking the word
- 10 "persons" and inserting the following: "felons".

By HOGG of Linn

H-1084 FILED MARCH 18, 2003

deferred 3/25/03 - out of order

HOUSE FILE 400

H-1085

- 1 Amend House File 400 as follows:
- 2 1. Page 1, lines 5 and 6, by striking the words
- 3 ", and if the person is released pursuant to a plan of
- 4 early release shall,".

By HOGG of Linn

H-1085 FILED MARCH 18, 2003

deferred 3/25/03 - out of order

HOUSE FILE 400

H-1086

- 1 Amend House File 400 as follows:
- 2 1. Page 1, line 8, by striking the words "place
- 3 of residence,".

By HOGG of Linn

H-1086 FILED MARCH 18, 2003

deferred 3/25/03 - out of order

HOUSE FILE 400

H-1092

- 1 Amend House File 400 as follows:
- 2 1. Page 1, line 12, by striking the figure
- 3 "906.5A" and inserting the following: "904.1001".
- 4 2. Page 1, line 15, by striking the words "board
- 5 of parole" and inserting the following: "department".

By EICHHORN of Hamilton

H-1092 FILED MARCH 19, 2003

Adopted 3/25/03

HOUSE FILE 400

H-1097

- 1 Amend the amendment, H-1092, to House File 400 as
- 2 follows:
- 3 1. Page 1, line 5, by inserting after the word
- 4 "department" the following: ", upon sufficient
- 5 funding,".

By HOGG of Linn

H-1097 FILED MARCH 19, 2003

Withdrawn 3/25/03

HOUSE FILE 400

H-1151

- 1 Amend the amendment, H-1092, to House File 400 as
- 2 follows:
- 3 1. Page 1, by inserting after line 1 the
- 4 following:
- 5 "____. Page 1, by striking lines 1 through 11."
- 6 2. Page 1, by striking lines 4 and 5 and
- 7 inserting the following:
- 8 "____. Page 1, line 15, by striking the words "The
- 9 board of parole" and inserting the following: "The
- 10 department for a person paroled or the judicial
- 11 district department of correctional services where a
- 12 person is placed on probation"."
- 13 3. Page 1, by inserting after line 5 the
- 14 following:
- 15 "____. Page 1, line 17, by striking the word "and"
- 16 and inserting the following: "or placed on probation,
- 17 and shall notify".
- 18 _____. Page 1, line 18, by inserting before the
- 19 word "conditions" the following: "any".
- 20 _____. Page 1, lines 18 and 19, by striking the
- 21 words "requiring the person to submit to a search as
- 22 provided in section 906.4 or 907.6" and inserting the
- 23 following: "which refer to searches of the person or
- 24 the property of the person".
- 25 _____. By striking page 1, line 23, through page 2,
- 26 line 8.
- 27 _____. Title page, by striking lines 1 and 2, and
- 28 inserting the following: "An Act relating to
- 29 providing probationer and parolee information to local
- 30 law enforcement"."

By EICHHORN of Hamilton

H-1151 FILED MARCH 25, 2003

ADOPTED 3/25/03

HOUSE FILE 400

H-1154

1 Amend the amendment, H-1092, to House File 400 as
2 follows:
3 1. Page 1, by inserting after line 5 the
4 following:
5 "____. Page 1, line 19, by inserting before the
6 word "The" the following: "No condition of release or
7 probation shall provide for a search without a
8 reasonable articulable suspicion of criminal
9 activity."
10 2. By renumbering as necessary.

By HOGG of Linn

H-1154 FILED MARCH 25, 2003

LOST 3/25/03

HOUSE FILE 400

H-1158

1 Amend the amendment, H-1092, to House File 400 as
2 follows:
3 1. Page 1, by inserting after line 5 the
4 following:
5 "____. Page 1, line 22, by inserting after the
6 figure "321.11." the following: "The notification
7 requirement of this section is contingent upon receipt
8 of sufficient funding."
9 2. By renumbering as necessary.

By HOGG of Linn

H-1158 FILED MARCH 25, 2003

LOST 3/25/03

HF 400 - Fourth Amendment Waiver (LSB 1708 HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version — New

Requested by Representative Robert Hogg

Description

House File 400 permits the court or Board of Parole to impose, as a condition of parole, work release, or probation, that the offender is subject to search of the person, property, place of residence, vehicle, or personal effects at any time, if reasonable suspicion exists, by any peace officer. The Board of Parole is required to impose this condition if an offender is released from prison under an early release plan. The Bill requires the Board of Parole to notify the Department of Transportation (DOT) and local law enforcement if such conditions are imposed. The Bill requires Community-Based Corrections (CBC) District Departments to notify the DOT and local law enforcement if the court imposes the condition on an offender who is on probation.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2003. A lag of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court and CBC information. Conviction and penalty information is based on FY 2002 data.
5. The Board of Parole already imposes this condition as part of the parole agreement. However, the Board does not currently notify local law enforcement of this condition. The Board does not impose the condition for inmates released to work release because the legal status does not change. The offender remains an inmate under the supervision of the Department of Corrections (DOC).
6. The court and Board of Parole have discretion in imposing this condition. There is no readily available information with which to predict the number of offenders on which this new condition may be imposed.
7. There were 1,209 work releases and 2,204 paroles from prison in FY 2002. There were 16,603 probation admissions in FY 2002.
8. The DOC, the DOT, and the Department of Public Safety (DPS) will incur additional computer programming and training costs due to the notification requirements of the Bill. The DOT will incur an increase in computer maintenance costs.
9. The estimated cost for the DOC assumes that electronically transferring the information to the DPS complies with the Bill.
10. The Board of Parole will require an additional 5.0 FTE positions to comply with the notification requirements.

Correctional Impact

To the extent that offenders are found to be in violation of their parole, work release, or probation agreement due to evidence discovered during a search permitted under this Bill, there will be a correctional impact. However, that impact cannot be determined.

Fiscal Impact

The fiscal impact of HF 400 is expected to be approximately \$229,000 in FY 2004 and \$163,000 in FY 2005:

	<u>FY 2004</u>	<u>FY 2005</u>
Board of Parole	\$ 150,000	\$ 150,000
DOC - programming and training costs	21,000	5,000
DPS - programming and training costs	21,000	5,000
DOT - programming and annual costs	37,000	3,000
Total	<u>\$ 229,000</u>	<u>\$ 163,000</u>

If a significant number of offenders are subjected to the new condition, and the DOC's statewide computer system (Iowa Corrections Offender Network) is not modified to comply with the notification requirements under the Bill, there will be increased workload for CBC staff.

Sources

Department of Corrections
Board of Parole
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Public Safety
Department of Transportation
Office of the State Public Defender

/s/ Dennis C Prouty

March 6, 2003

HOUSE FILE 400
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 90)

(As Amended and Passed by the House March 25, 2003)

Passed House, Date Passed 3/25/03 Passed Senate, Date Passed 4/21/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to providing probationer and parolee information
2 to local law enforcement agencies and the state department
3 of transportation.

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

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House Amendments _____
Deleted Language *

HOUSE FILE 400

S-3175

1 Amend House File 400, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 13, by inserting after the figure
4 "321.11." the following: "The department for parolees
5 or the judicial district department of correctional
6 services for probationers shall notify the local law
7 enforcement agency with jurisdiction over the area
8 where the person is paroled or placed on probation and
9 the state department of transportation, when the
10 person is discharged from parole or probation. Upon
11 receipt of the notice that the person is discharged
12 from parole or probation the record of information
13 generated or maintained pursuant to this section shall
14 be expunged by the state department of transportation
15 and the local law enforcement agency."

By COMMITTEE ON JUDICIARY
DONALD B. REDFERN, CHAIRP

S-3175 FILED APRIL 8, 2003

Adopted 4/21/03

HF 400

jm/es/25

HF 400

* 1 Section 1. NEW SECTION. 904.1001 INFORMATION PROVIDED TO
 2 STATE DEPARTMENT OF TRANSPORTATION AND LAW ENFORCEMENT
 3 AGENCIES.
 4 The department for a person paroled or the judicial
 5 district department of correctional services where a person is
 6 placed on probation shall notify the local law enforcement
 7 agency with jurisdiction over the area where a person is
 8 paroled or placed on probation, and shall notify the state
 9 department of transportation of any conditions of the person's
 10 release which refer to searches of the person or the property
 11 of the person. The state department of transportation shall
 12 release such information to a law enforcement agency as
 13 provided in section 321.11.

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SENATE AMENDMENT TO
 HOUSE FILE 400

H-1382

1 Amend House File 400, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 1, line 13, by inserting after the figure
 4 "321.11." the following: "The department for parolees
 5 or the judicial district department of correctional
 6 services for probationers shall notify the local law
 7 enforcement agency with jurisdiction over the area
 8 where the person is paroled or placed on probation and
 9 the state department of transportation, when the
 10 person is discharged from parole or probation. Upon
 11 receipt of the notice that the person is discharged
 12 from parole or probation the record of information
 13 generated or maintained pursuant to this section shall
 14 be expunged by the state department of transportation
 15 and the local law enforcement agency."

RECEIVED FROM THE SENATE

H-1382 FILED APRIL 21, 2003

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HF 400 – Notification to Local Law Enforcement (LSB 1708 HV.1)
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version — HF 400 as Amended and Passed by the House
Requested by Senator Charles Larson, Jr.

Description

House File 400 as amended and passed by the House requires the Department of Corrections (DOC) and Community-Based Corrections (CBC) District Departments to notify local law enforcement and the Department of Transportation (DOT) of offenders placed on parole or probation supervision. The notification shall include conditions of supervision relating to searches of the offender or the offender's property.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2003. A lag of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court and CBC information. Conviction and penalty information is based on FY 2002 data.
5. The Board of Parole already imposes a condition related to searches as part of the parole agreement. However, the Board does not notify local law enforcement of this condition.
6. There were 2,204 paroles from prison in FY 2002. There were 16,603 probation admissions in FY 2002. There is no readily available information with which to predict the number of offenders on probation that may be subject to conditions relating to searches.
7. The DOC, the DOT, and the Department of Public Safety (DPS) will incur additional computer programming and training costs due to the notification requirements of the Bill. The DOT will incur an increase in computer maintenance costs.
8. The estimated cost for the DOC assumes that electronically transferring the information to the DPS complies with the Bill.

Correctional Impact

To the extent that offenders are found to be in violation of their parole, work release, or probation agreement due to evidence discovered during a search permitted under this Bill, there will be a correctional impact. However, that impact cannot be determined.

Fiscal Impact

The fiscal impact of HF 400 is expected to be approximately \$79,000 in FY 2004 and \$13,000 in FY 2005:

	<u>FY 2004</u>	<u>FY 2005</u>
DOC - programming and training costs	\$ 21,000	\$ 5,000
DPS - programming and training costs	21,000	5,000
DOT - programming and annual costs	37,000	3,000
Total	<u>\$ 79,000</u>	<u>\$ 13,000</u>

If the DOC's statewide computer system (Iowa Corrections Offender Network) is not modified to comply with the notification requirements under the Bill, there will be a significant increase in workload for CBC staff. These staff will be required to manually notify local law enforcement if the notification cannot be sent automatically via computer.

Sources

- Department of Corrections
- Board of Parole
- Department of Human Rights, Criminal and Juvenile Justice Planning Division
- Department of Public Safety
- Department of Transportation

/s/ Dennis C Prouty

March 31, 2003

Eichhorn, Chair
Hogg
Tjepkes

Suc: led By
S⁻ ○ 400

HSB 90

PUBLIC SAFETY

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to conducting searches of persons on probation or
2 parole and providing information to local law enforcement
3 agencies and the state department of transportation.

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

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1 Section 1. Section 906.4, Code 2003, is amended by adding
2 the following new unnumbered paragraph after unnumbered
3 paragraph 3:

4 NEW UNNUMBERED PARAGRAPH. The board as a condition of
5 parole or work release may, and if the person is released
6 pursuant to a plan of early release shall, require that the
7 person submit to a search of the person, the person's
8 property, place of residence, vehicle, or personal effects, at
9 any time, with or without a search warrant or probable cause,
10 by any peace officer. For purposes of this section, "peace
11 officer" means those officers designated under section 801.4.

12 Sec. 2. NEW SECTION. 906.5A INFORMATION PROVIDED TO
13 STATE DEPARTMENT OF TRANSPORTATION AND LAW ENFORCEMENT
14 AGENCIES.

15 The board of parole shall notify the local law enforcement
16 agency with jurisdiction over the area where a person is
17 paroled and the state department of transportation of
18 conditions of the person's release requiring the person to
19 submit to a search as provided in section 906.4 or 907.6. The
20 state department of transportation shall release such
21 information to a law enforcement agency as provided in section
22 321.11.

23 Sec. 3. Section 907.6, Code 2003, is amended to read as
24 follows:

25 907.6 CONDITIONS OF PROBATION -- REGULATIONS.

26 Probationers are subject to the conditions established by
27 the judicial district department of correctional services
28 subject to the approval of the court, and any additional
29 reasonable conditions which the court or district department
30 may impose to promote rehabilitation of the defendant or
31 protection of the community. Conditions may include but are
32 not limited to adherence to regulations generally applicable
33 to persons released on parole and including requiring unpaid
34 community service as allowed pursuant to section 907.13, or
35 being subjected to searches pursuant to section 906.4. The

1 district department assigned to supervise the probationer
2 shall notify the local law enforcement agency with
3 jurisdiction over the area where the probationer resides and
4 the state department of transportation of conditions of the
5 probationer's release requiring the probationer to submit to a
6 search as provided in this section. The state department of
7 transportation shall release such information to a law
8 enforcement agency as provided in section 321.11.

9 EXPLANATION

10 This bill relates to conducting searches of persons on
11 probation or parole.

12 The bill provides that as a condition of probation or
13 parole, a person may be subjected to searches of the person,
14 the person's property, place of residence, vehicle, or
15 personal effects, at any time, with or without a search
16 warrant or probable cause, by any peace officer. For purposes
17 of this bill, "peace officer" means those officers designated
18 under Code section 801.4.

19 The bill requires the board of parole or a judicial
20 district department of correctional services to provide a
21 local law enforcement agency with jurisdiction over the area
22 where the parolee or probationer resides with information
23 regarding the condition of parole or probation. The bill also
24 requires the board of parole or the judicial district
25 department to provide the information to the state department
26 of transportation. The bill requires the department of
27 transportation to release the information as provided in Code
28 section 321.11.

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