

FILED MAR 08 '04

SENATE FILE 2278
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3153)

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

A BILL FOR

1 An Act creating medical parole for certain persons committed to
2 the custody of the department of corrections.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 2278
JUDICIARY

1 DIVISION I

2 Section 1. NEW SECTION. 217.13A ASSISTANCE FOR PERSONS
3 ON MEDICAL PAROLE.

4 1. If a person has been released on medical parole
5 pursuant to section 906.19 and applies for public assistance,
6 including medical assistance, the department of corrections
7 shall forward the application for assistance to the department
8 of human services, and advise the board of parole that an
9 application for assistance has been made.

10 2. The department of human services shall, within sixty
11 days of receipt of a medical parolee's application for
12 assistance, determine the eligibility of the person for
13 general assistance, public assistance, medical assistance, or
14 any other department or federal health care assistance.

15 3. If a person is released on medical parole and is in
16 need of public assistance, including medical assistance, the
17 department of human services is responsible for the
18 administrative costs of the initial and any subsequent
19 eligibility determination and for the costs of any public
20 assistance, including medical assistance, following a person's
21 release on medical parole for as long as the person is
22 eligible.

23 4. The department of corrections and the department of
24 human services shall jointly request proposals from public or
25 private vendors to provide contract services for persons
26 released on medical parole.

27 Sec. 2. NEW SECTION. 906.19 MEDICAL PAROLE.

28 1. A person committed to the custody of the director of
29 the department of corrections including offenders serving a
30 mandatory minimum sentence, an enhanced sentence, a sentence
31 which limits the person's parole eligibility, a person serving
32 a class "A" felony sentence, or serving a sentence under
33 section 902.12, shall be immediately eligible for a medical
34 parole under the following circumstances:

35 a. The department of corrections makes an application to

1 the board of parole with supporting medical evidence stating
2 any of the following:

3 (1) The person suffers from a chronic infirmity, physical
4 condition, physical limitation, illness, or disease related to
5 aging.

6 (2) The person has an existing medical or physical
7 condition that is permanent and is physically or mentally
8 incapacitating.

9 (3) The person is terminally ill.

10 b. After reviewing the application, the board determines
11 all of the following:

12 (1) The person is eligible for medical parole under
13 paragraph "a".

14 (2) A reasonable probability exists that the person can be
15 released without detriment to the community or to the person.

16 2. Prior to making a determination under subsection 1, the
17 board may request that the department of corrections provide
18 additional medical evidence supporting the application or that
19 a medical examination of the person be conducted.

20 3. If the board orders the person released on medical
21 parole, the department of corrections, in cooperation with the
22 board and the judicial district department of correctional
23 services, shall determine the level of appropriate supervision
24 of the person. In addition to any other terms and conditions
25 of medical parole, supervision of a person on medical parole
26 shall consist of periodic medical evaluations at intervals to
27 be determined by the board at the time of release.

28 4. After a person is released on medical parole, earned
29 time shall not reduce the remainder of the person's sentence
30 while the person is on medical parole. The term of parole for
31 a person on medical parole shall equal the remainder of the
32 sentence of the person.

33 5. If the board finds a change in circumstances or
34 discovers new information concerning a person who has been
35 released on medical parole, the board may rescind the medical

1 parole or revise the previously granted medical parole release
2 date.

3 6. The board shall issue its decision to release a person
4 on medical parole or deny a person's medical parole or to
5 rescind the medical parole or revise the medical parole
6 release date of the person in writing and provide a basis for
7 the decision. A copy of the decision shall be provided to the
8 person.

9

DIVISION II

10 Sec. 3. Section 124.413, unnumbered paragraph 1, Code
11 2003, is amended to read as follows:

12 A person sentenced pursuant to section 124.401, subsection
13 1, paragraph "a", "b", "c", "e", or "f", shall not be eligible
14 for parole unless medically paroled pursuant to section
15 906.19, or until the person has served a minimum period of
16 confinement of one-third of the maximum indeterminate sentence
17 prescribed by law.

18 Sec. 4. Section 708.2A, subsection 6, paragraph b, Code
19 2003, is amended to read as follows:

20 b. A person convicted of violating subsection 4 shall be
21 sentenced as provided under section 902.9, subsection 5, and
22 shall be denied parole or work release, unless the person is
23 medically paroled pursuant to section 906.19, until the person
24 has served a minimum of one year of the person's sentence.
25 Notwithstanding section 901.5, subsections 1, 3, and 5 and
26 section 907.3, the person cannot receive a suspended or
27 deferred sentence or a deferred judgment; however, the person
28 sentenced shall receive credit for any time the person was
29 confined in a jail or detention facility following arrest.

30 Sec. 5. Section 901A.2, Code 2003, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 9. A person sentenced under this section
33 is eligible for medical parole pursuant to section 906.19.

34 Sec. 6. Section 902.1, Code 2003, is amended to read as
35 follows:

1 902.1 CLASS "A" FELONY.

2 Upon a plea of guilty, a verdict of guilty, or a special
3 verdict upon which a judgment of conviction of a class "A"
4 felony may be rendered, the court shall enter a judgment of
5 conviction and shall commit the defendant into the custody of
6 the director of the Iowa department of corrections for the
7 rest of the defendant's life. Nothing in the Iowa corrections
8 code pertaining to deferred judgment, deferred sentence,
9 suspended sentence, or reconsideration of sentence applies to
10 a class "A" felony, and a person convicted of a class "A"
11 felony shall not be released on parole unless the governor
12 commutes the sentence to a term of years, or the person is
13 medically paroled pursuant to section 906.19.

14 Sec. 7. Section 902.7, Code 2003, is amended to read as
15 follows:

16 902.7 MINIMUM SENTENCE -- USE OF A DANGEROUS WEAPON.

17 At the trial of a person charged with participating in a
18 forcible felony, if the trier of fact finds beyond a
19 reasonable doubt that the person is guilty of a forcible
20 felony and that the person represented that the person was in
21 the immediate possession and control of a dangerous weapon,
22 displayed a dangerous weapon in a threatening manner, or was
23 armed with a dangerous weapon while participating in the
24 forcible felony the convicted person shall serve a minimum of
25 five years of the sentence imposed by law. A person sentenced
26 pursuant to this section shall not be eligible for parole,
27 unless the person is medically paroled pursuant to section
28 906.19, until the person has served the minimum sentence of
29 confinement imposed by this section.

30 Sec. 8. Section 902.8, Code 2003, is amended to read as
31 follows:

32 902.8 MINIMUM SENTENCE -- HABITUAL OFFENDER.

33 An A habitual offender is any person convicted of a class
34 "C" or a class "D" felony, who has twice before been convicted
35 of any felony in a court of this or any other state, or of the

1 United States. An offense is a felony if, by the law under
2 which the person is convicted, it is so classified at the time
3 of the person's conviction. A person sentenced as an habitual
4 offender shall not be eligible for parole unless medically
5 paroled pursuant to section 906.19, or until the person has
6 served the minimum sentence of confinement of three years.

7 Sec. 9. Section 902.8A, Code 2003, is amended to read as
8 follows:

9 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE, OR
10 DELIVERY OF, AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.

11 A person who has been convicted for a first violation under
12 section 124.401D shall not be eligible for parole unless
13 medically paroled pursuant to section 906.19, or until the
14 person has served a minimum term of confinement of ten years.

15 Sec. 10. Section 902.11, unnumbered paragraph 1, Code
16 Supplement 2003, is amended to read as follows:

17 A person serving a sentence for conviction of a felony, who
18 has a criminal record of one or more prior convictions for a
19 forcible felony or a crime of a similar gravity in this or any
20 other state, shall be denied parole or work release unless
21 medically paroled pursuant to section 906.19, or unless the
22 person has served at least one-half of the maximum term of the
23 defendant's sentence. However, the mandatory sentence
24 provided for by this section does not apply if either of the
25 following apply:

26 Sec. 11. Section 902.12, unnumbered paragraph 1, Code
27 Supplement 2003, is amended to read as follows:

28 A person serving a sentence for conviction of the following
29 felonies shall be denied parole or work release unless the
30 person has served at least seven-tenths of the maximum term of
31 the person's sentence or the person has been medically paroled
32 pursuant to section 906.19:

33

EXPLANATION

34 This bill relates to providing medical parole to a person
35 committed to the custody of the department of corrections.

1 DIVISION I -- Under the division, any person committed to
2 the custody of the department of corrections including
3 offenders serving a mandatory minimum sentence, an enhanced
4 sentence, a sentence which limits the person's parole
5 eligibility, a person serving a class "A" felony sentence, or
6 serving a sentence under section 902.12, may be eligible for
7 medical parole. The division provides that a person committed
8 to the custody of the department of corrections shall be
9 immediately eligible for medical parole under the following
10 circumstances: (1) the person suffers from a chronic
11 infirmity, physical condition, physical limitation, illness,
12 or disease related to aging; (2) the person has an existing
13 medical or physical condition which is permanent and is
14 physically or mentally incapacitating; or (3) the person is
15 terminally ill.

16 If the board of parole under the division orders the person
17 released on medical parole, the department of corrections in
18 cooperation with the board and the judicial district
19 department of correctional services shall determine the level
20 of appropriate supervision of the person. In addition to any
21 other terms and conditions of supervision, a person on medical
22 parole shall have periodic medical evaluations at intervals to
23 be determined by the board of parole at the time of release.

24 The division also provides that if the board of parole
25 finds a change in circumstances or discovers new information
26 concerning a person who has been released on medical parole,
27 the board may rescind the medical parole or revise the
28 previously granted parole release date.

29 If a person is released on medical parole pursuant to the
30 division and applies for public assistance, including medical
31 assistance, the department of corrections shall forward the
32 application for assistance to the department of human
33 services, and advise the board of parole that an application
34 for assistance has been made.

35 The division provides that the department of human services

1 shall, within 60 days of receipt of a medical parolee's
2 application for assistance, determine the eligibility of the
3 person for general assistance, public assistance, medical
4 assistance, or any type of assistance.

5 The division also provides that the department of human
6 services is responsible for the administrative costs of the
7 initial and any subsequent eligibility determination and for
8 the costs of any public assistance, including medical
9 assistance, following a person's release on medical parole for
10 as long as the person is eligible.

11 DIVISION II -- The division amends various Code sections to
12 conform with the changes in Division I.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 2278**S-5092**

1 Amend Senate File 2278 as follows:
2 1. Page 1, by striking line 35 and inserting the
3 following:
4 "____. If the department of corrections makes a
5 recommendation to".
6 2. Page 2, by striking lines 3 and 4 and
7 inserting the following:
8 "(1) The person suffers from a chronic infirmity,
9 physical limitation, serious illness, or serious
10 disease related to".
11 3. Page 2, line 10, by striking the word
12 "application" and inserting the following:
13 "recommendation".
14 4. Page 2, line 18, by striking the word
15 "application" and inserting the following:
16 "recommendation".
17 5. Page 3, by inserting after line 8 the
18 following:
19 "____. The board shall adopt rules pursuant to
20 chapter 17A which are necessary to carry out the
21 provisions of this section."
22 6. Page 5, by inserting after line 32 the
23 following:
24 "DIVISION III
25 Sec. ____ . EFFECTIVE DATE. This Act takes effect
26 January 1, 2005."
27 7. Title page, line 2, by inserting after the
28 word "corrections" the following: ", and providing an
29 effective date".
30 8. By renumbering as necessary.

By DAVID MILLER

S-5092 FILED MARCH 15, 2004
ADOPTED



1

DIVISION I

2 Section 1. NEW SECTION. 217.13A ASSISTANCE FOR PERSONS
3 ON MEDICAL PAROLE.

4 1. If a person has been released on medical parole
5 pursuant to section 906.19 and applies for public assistance,
6 including medical assistance, the department of corrections
7 shall forward the application for assistance to the department
8 of human services, and advise the board of parole that an
9 application for assistance has been made.

10 2. The department of human services shall, within sixty
11 days of receipt of a medical parolee's application for
12 assistance, determine the eligibility of the person for
13 general assistance, public assistance, medical assistance, or
14 any other department or federal health care assistance.

15 3. If a person is released on medical parole and is in
16 need of public assistance, including medical assistance, the
17 department of human services is responsible for the
18 administrative costs of the initial and any subsequent
19 eligibility determination and for the costs of any public
20 assistance, including medical assistance, following a person's
21 release on medical parole for as long as the person is
22 eligible.

23 4. The department of corrections and the department of
24 human services shall jointly request proposals from public or
25 private vendors to provide contract services for persons
26 released on medical parole.

27 Sec. 2. NEW SECTION. 906.19 MEDICAL PAROLE.

28 1. A person committed to the custody of the director of
29 the department of corrections including offenders serving a
30 mandatory minimum sentence, an enhanced sentence, a sentence
31 which limits the person's parole eligibility, a person serving
32 a class "A" felony sentence, or serving a sentence under
33 section 902.12, shall be immediately eligible for a medical
34 parole under the following circumstances:

35 a. If the department of corrections makes a recommendation

1 to the board of parole with supporting medical evidence
2 stating any of the following:

3 (1) The person suffers from a chronic infirmity, physical
4 limitation, serious illness, or serious disease related to
5 aging.

6 (2) The person has an existing medical or physical
7 condition that is permanent and is physically or mentally
8 incapacitating.

9 (3) The person is terminally ill.

10 b. After reviewing the recommendation, the board
11 determines all of the following:

12 (1) The person is eligible for medical parole under
13 paragraph "a".

14 (2) A reasonable probability exists that the person can be
15 released without detriment to the community or to the person.

16 2. Prior to making a determination under subsection 1, the
17 board may request that the department of corrections provide
18 additional medical evidence supporting the recommendation or
19 that a medical examination of the person be conducted.

20 3. If the board orders the person released on medical
21 parole, the department of corrections, in cooperation with the
22 board and the judicial district department of correctional
23 services, shall determine the level of appropriate supervision
24 of the person. In addition to any other terms and conditions
25 of medical parole, supervision of a person on medical parole
26 shall consist of periodic medical evaluations at intervals to
27 be determined by the board at the time of release.

28 4. After a person is released on medical parole, earned
29 time shall not reduce the remainder of the person's sentence
30 while the person is on medical parole. The term of parole for
31 a person on medical parole shall equal the remainder of the
32 sentence of the person.

33 5. If the board finds a change in circumstances or
34 discovers new information concerning a person who has been
35 released on medical parole, the board may rescind the medical

1 parole or revise the previously granted medical parole release
2 date.

3 6. The board shall issue its decision to release a person
4 on medical parole or deny a person's medical parole or to
5 rescind the medical parole or revise the medical parole
6 release date of the person in writing and provide a basis for
7 the decision. A copy of the decision shall be provided to the
8 person.

9 7. The board shall adopt rules pursuant to chapter 17A
10 which are necessary to carry out the provisions of this
11 section.

12 DIVISION II

13 Sec. 3. Section 124.413, unnumbered paragraph 1, Code
14 2003, is amended to read as follows:

15 A person sentenced pursuant to section 124.401, subsection
16 1, paragraph "a", "b", "c", "e", or "f", shall not be eligible
17 for parole unless medically paroled pursuant to section
18 906.19, or until the person has served a minimum period of
19 confinement of one-third of the maximum indeterminate sentence
20 prescribed by law.

21 Sec. 4. Section 708.2A, subsection 6, paragraph b, Code
22 2003, is amended to read as follows:

23 b. A person convicted of violating subsection 4 shall be
24 sentenced as provided under section 902.9, subsection 5, and
25 shall be denied parole or work release, unless the person is
26 medically paroled pursuant to section 906.19, until the person
27 has served a minimum of one year of the person's sentence.
28 Notwithstanding section 901.5, subsections 1, 3, and 5 and
29 section 907.3, the person cannot receive a suspended or
30 deferred sentence or a deferred judgment; however, the person
31 sentenced shall receive credit for any time the person was
32 confined in a jail or detention facility following arrest.

33 Sec. 5. Section 901A.2, Code 2003, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 9. A person sentenced under this section

1 is eligible for medical parole pursuant to section 906.19.

2 Sec. 6. Section 902.1, Code 2003, is amended to read as
3 follows:

4 902.1 CLASS "A" FELONY.

5 Upon a plea of guilty, a verdict of guilty, or a special
6 verdict upon which a judgment of conviction of a class "A"
7 felony may be rendered, the court shall enter a judgment of
8 conviction and shall commit the defendant into the custody of
9 the director of the Iowa department of corrections for the
10 rest of the defendant's life. Nothing in the Iowa corrections
11 code pertaining to deferred judgment, deferred sentence,
12 suspended sentence, or reconsideration of sentence applies to
13 a class "A" felony, and a person convicted of a class "A"
14 felony shall not be released on parole unless the governor
15 commutes the sentence to a term of years, or the person is
16 medically paroled pursuant to section 906.19.

17 Sec. 7. Section 902.7, Code 2003, is amended to read as
18 follows:

19 902.7 MINIMUM SENTENCE -- USE OF A DANGEROUS WEAPON.

20 At the trial of a person charged with participating in a
21 forcible felony, if the trier of fact finds beyond a
22 reasonable doubt that the person is guilty of a forcible
23 felony and that the person represented that the person was in
24 the immediate possession and control of a dangerous weapon,
25 displayed a dangerous weapon in a threatening manner, or was
26 armed with a dangerous weapon while participating in the
27 forcible felony the convicted person shall serve a minimum of
28 five years of the sentence imposed by law. A person sentenced
29 pursuant to this section shall not be eligible for parole,
30 unless the person is medically paroled pursuant to section
31 906.19, until the person has served the minimum sentence of
32 confinement imposed by this section.

33 Sec. 8. Section 902.8, Code 2003, is amended to read as
34 follows:

35 902.8 MINIMUM SENTENCE -- HABITUAL OFFENDER.

1 An A habitual offender is any person convicted of a class
2 "C" or a class "D" felony, who has twice before been convicted
3 of any felony in a court of this or any other state, or of the
4 United States. An offense is a felony if, by the law under
5 which the person is convicted, it is so classified at the time
6 of the person's conviction. A person sentenced as an habitual
7 offender shall not be eligible for parole unless medically
8 paroled pursuant to section 906.19, or until the person has
9 served the minimum sentence of confinement of three years.

10 Sec. 9. Section 902.8A, Code 2003, is amended to read as
11 follows:

12 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE, OR
13 DELIVERY OF, AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.

14 A person who has been convicted for a first violation under
15 section 124.401D shall not be eligible for parole unless
16 medically paroled pursuant to section 906.19, or until the
17 person has served a minimum term of confinement of ten years.

18 Sec. 10. Section 902.11, unnumbered paragraph 1, Code
19 Supplement 2003, is amended to read as follows:

20 A person serving a sentence for conviction of a felony, who
21 has a criminal record of one or more prior convictions for a
22 forcible felony or a crime of a similar gravity in this or any
23 other state, shall be denied parole or work release unless
24 medically paroled pursuant to section 906.19, or unless the
25 person has served at least one-half of the maximum term of the
26 defendant's sentence. However, the mandatory sentence
27 provided for by this section does not apply if either of the
28 following apply:

29 Sec. 11. Section 902.12, unnumbered paragraph 1, Code
30 Supplement 2003, is amended to read as follows:

31 A person serving a sentence for conviction of the following
32 felonies shall be denied parole or work release unless the
33 person has served at least seven-tenths of the maximum term of
34 the person's sentence or the person has been medically paroled
35 pursuant to section 906.19:

DIVISION III

1
2 Sec. 12. EFFECTIVE DATE. This Act takes effect January 1,
3 2005.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

SF 2278 – Medical Parole (LSB 6653 SV)

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

Fiscal Note Version – Senate File 2278 as Amended and Passed by the Senate

Requested by Representative Lance Horbach

Description

Senate File 2278, as amended and passed by the Senate, provides medical parole for anyone sentenced to the Department of Corrections (DOC) including those offenders serving a mandatory minimum term. The Bill sets criteria for medical parole and requires the DOC to recommend to the Board of Parole for considering an offender for medical parole. The Board of Parole retains the final decision-making authority to grant or rescind medical parole. An offender on medical parole is required to have periodic medical evaluations at intervals set by the Board of Parole.

The Department of Human Services (DHS) is required to process a medical parolee's application for public, medical, or general assistance within 60 days of receipt of the application for assistance. The DHS is responsible for the costs of any public assistance, including medical assistance, upon release from prison to medical parole for as long as the person is eligible. The DOC and the DHS are required to jointly issue requests for proposals from public or private vendors to provide contract services for persons released on medical parole. The Bill takes effect January 1, 2005.

Assumptions

1. The DOC indicates there are currently 28 offenders in State prisons who may qualify for medical parole. This is likely the largest pool of eligible offenders at any given time for medical parole over the next five fiscal years.
2. Offenders will be eligible for medical parole in future fiscal years as the State prison population ages. Offenders aged 51 or older comprised 3.0% of the prison population in FY 1983. By FY 2003, offenders aged 51 or older comprised 7.0% of the population.
3. The DOC indicates a savings of \$12,000 annually for each offender paroled under SF 2278 as amended and passed by the Senate. The savings will occur in medical supplies and drugs and biological medications. The DOC spent \$4.1 million on drugs and biological medications in FY 2003, which is an 11.0% increase compared to FY 2002. Any savings generated by medical paroles is a cost containment effort. Drug costs are likely to continue to increase, but may increase at a decreasing rate.
4. The State prisons were operating at 122.9% of current designed capacity on March 9, 2004, with a prison population of 8,591 offenders. Current designed capacity is 6,989 beds. The State prison budget is based on 7,800 inmates; the current system is operating at 110.1% of budgeted capacity.
5. The Criminal and Juvenile Justice Planning Division in the Department of Human Rights released its prison population forecast that stated that by FY 2013, the prison population is expected to reach 11,925 offenders. If the prison population reaches 11,925 offenders, five new prisons will need to be built over the next ten years at a total construction cost of \$250.0 million. Total annual operating costs will increase by approximately \$140.0 million compared to current law. If five new 800-bed prisons are built and the population reaches 11,925 offenders, designed capacity would be 11,384 beds, and the prisons would be operating at 104.8% of designed capacity. There are no operating cost savings for Iowa's prison system under this Bill.
6. Community-Based Corrections (CBC) may experience an increase in parole cases. Over the long term, caseloads will not be significantly impacted.

7. The Board of Parole indicates it will review all cases that the DOC sends to it. The Board of Parole will incur additional costs associated with case reviews to consider medical parole. The three part-time Board members will require more per diem days. The Board will require one additional staff. This assumes planned computer upgrades will occur at no additional cost to the Board.
8. The DHS estimates the annual cost for medical assistance is \$40,000 per offender granted a medical parole. The State match rate is 36.4% for Medical Assistance.
9. The University of Iowa Hospitals and Clinics currently provides medical care to offenders eligible for medical parole. The Board of Regents assumes it will continue to provide medical care to those offenders granted a medical parole under the Bill.

Correctional Impact

The average length of stay for certain offenders will decrease. The table below illustrates the estimated cumulative impact on the prison population.

| Offenders Released Under SF 2278 | | | | | |
|---|----------------|----------------|----------------|----------------|----------------|
| | <u>FY 2005</u> | <u>FY 2006</u> | <u>FY 2007</u> | <u>FY 2008</u> | <u>FY 2009</u> |
| Offenders | - 2 | - 6 | - 6 | - 7 | - 7 |

It is possible that no offenders may be released under the Bill.

Fiscal Impact

The estimated fiscal impact of SF 2278, as amended and passed by the Senate, to the State General Fund is an increase in expenditures of \$21,000 during FY 2005 and a decrease in expenditures of \$34,000 in FY 2006. Expenditures should continue to decrease in future fiscal years. An additional amount of \$13,000 in FY 2005 and \$204,000 in FY 2006 in federal Medical Assistance payments will be required. A breakdown of expenditures follows:

| <u>State Agency</u> | <u>FY 2005</u> | <u>FY 2006</u> |
|---------------------|------------------|--------------------|
| DHS | \$ 7,000 | \$ 116,000 |
| Board of Parole | 27,000 | 54,000 |
| Board of Regents | - 13,000 | - 204,000 |
| | <u>\$ 21,000</u> | <u>\$ - 34,000</u> |

If no offender receives a medical parole, there is minimal fiscal impact.

Sources

- Department of Human Rights, Criminal and Juvenile Justice Planning Division
- Department of Corrections
- Department of Human Services
- Board of Regents
- Board of Parole

Dennis C Prouty

March 30, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Miller
Fraise
Boettger

Succeeded By
HF 2278
Judiciary
SSB# 3153

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON REDFERN)

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

A BILL FOR

1 An Act creating medical parole for certain persons committed to
2 the custody of the department of corrections.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 DIVISION I

2 Section 1. NEW SECTION. 217.13A ASSISTANCE FOR PERSONS
3 ON MEDICAL PAROLE.

4 1. If a person has been released on medical parole
5 pursuant to section 906.19 and applies for public assistance,
6 including medical assistance, the department of corrections
7 shall forward the application for assistance to the department
8 of human services, and advise the board of parole that an
9 application for assistance has been made.

10 2. The department of human services shall, within sixty
11 days of receipt of a medical parolee's application for
12 assistance, determine the eligibility of the person for
13 general assistance, public assistance, medical assistance, or
14 any other department or federal health care assistance.

15 3. If a person is released on medical parole and is in
16 need of public assistance, including medical assistance, the
17 department of human services is responsible for the
18 administrative costs of the initial and any subsequent
19 eligibility determination and for the costs of any public
20 assistance, including medical assistance, following a person's
21 release on medical parole for as long as the person is
22 eligible.

23 4. The department of corrections and the department of
24 human services shall jointly request proposals from public or
25 private vendors to provide contract services for persons
26 released on medical parole.

27 Sec. 2. NEW SECTION. 906.19 MEDICAL PAROLE.

28 1. A person committed to the custody of the director of
29 the department of corrections including offenders serving a
30 mandatory minimum sentence, an enhanced sentence, a sentence
31 which limits the person's parole eligibility, a person serving
32 a class "A" felony sentence, or serving a sentence under
33 section 902.12, shall be immediately eligible for a medical
34 parole under the following circumstances:

35 a. The department of corrections makes an application to

1 the board of parole with supporting medical evidence stating
2 any of the following:

3 (1) The person suffers from a chronic infirmity, illness,
4 or disease related to aging.

5 (2) The person has an existing medical condition that is
6 permanent and is physically or mentally incapacitating.

7 (3) The person is terminally ill.

8 b. After reviewing the application, the board determines
9 all of the following:

10 (1) The person is eligible for medical parole under
11 paragraph "a".

12 (2) A reasonable probability exists that the person can be
13 released without detriment to the community or to the person.

14 2. Prior to making a determination under subsection 1, the
15 board may request that the department of corrections provide
16 additional medical evidence supporting the application or that
17 a medical examination of the person be conducted.

18 3. If the board orders the person released on medical
19 parole, the department of corrections, in cooperation with the
20 board and the judicial district department of correctional
21 services, shall determine the level of appropriate supervision
22 of the person. In addition to any other terms and conditions
23 of medical parole, supervision of a person on medical parole
24 shall consist of periodic medical evaluations at intervals to
25 be determined by the board at the time of release.

26 4. After a person is released on medical parole, earned
27 time shall not reduce the remainder of the person's sentence
28 while the person is on medical parole. The term of parole for
29 a person on medical parole shall equal the remainder of the
30 sentence of the person.

31 5. If the board finds a change in circumstances or
32 discovers new information concerning a person who has been
33 released on medical parole, the board may rescind the medical
34 parole or revise the previously granted medical parole release
35 date.

1 6. The board shall issue its decision to release a person
2 on medical parole or deny a person's medical parole or to
3 rescind the medical parole or revise the medical parole
4 release date of the person in writing and provide a basis for
5 the decision. A copy of the decision shall be provided to the
6 person.

7 DIVISION II

8 Sec. 3. Section 124.413, unnumbered paragraph 1, Code
9 2003, is amended to read as follows:

10 A person sentenced pursuant to section 124.401, subsection
11 1, paragraph "a", "b", "c", "e", or "f", shall not be eligible
12 for parole unless medically paroled pursuant to section
13 906.19, or until the person has served a minimum period of
14 confinement of one-third of the maximum indeterminate sentence
15 prescribed by law.

16 Sec. 4. Section 708.2A, subsection 6, paragraph b, Code
17 2003, is amended to read as follows:

18 b. A person convicted of violating subsection 4 shall be
19 sentenced as provided under section 902.9, subsection 5, and
20 shall be denied parole or work release, unless the person is
21 medically paroled pursuant to section 906.19, until the person
22 has served a minimum of one year of the person's sentence.
23 Notwithstanding section 901.5, subsections 1, 3, and 5 and
24 section 907.3, the person cannot receive a suspended or
25 deferred sentence or a deferred judgment; however, the person
26 sentenced shall receive credit for any time the person was
27 confined in a jail or detention facility following arrest.

28 Sec. 5. Section 901A.2, Code 2003, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 9. A person sentenced under this section
31 is eligible for medical parole pursuant to section 906.19.

32 Sec. 6. Section 902.1, Code 2003, is amended to read as
33 follows:

34 902.1 CLASS "A" FELONY.

35 Upon a plea of guilty, a verdict of guilty, or a special

1 verdict upon which a judgment of conviction of a class "A"
 2 felony may be rendered, the court shall enter a judgment of
 3 conviction and shall commit the defendant into the custody of
 4 the director of the Iowa department of corrections for the
 5 rest of the defendant's life. Nothing in the Iowa corrections
 6 code pertaining to deferred judgment, deferred sentence,
 7 suspended sentence, or reconsideration of sentence applies to
 8 a class "A" felony, and a person convicted of a class "A"
 9 felony shall not be released on parole unless the governor
 10 commutes the sentence to a term of years, or the person is
 11 medically paroled pursuant to section 906.19.

12 Sec. 7. Section 902.7, Code 2003, is amended to read as
 13 follows:

14 902.7 MINIMUM SENTENCE -- USE OF A DANGEROUS WEAPON.

15 At the trial of a person charged with participating in a
 16 forcible felony, if the trier of fact finds beyond a
 17 reasonable doubt that the person is guilty of a forcible
 18 felony and that the person represented that the person was in
 19 the immediate possession and control of a dangerous weapon,
 20 displayed a dangerous weapon in a threatening manner, or was
 21 armed with a dangerous weapon while participating in the
 22 forcible felony the convicted person shall serve a minimum of
 23 five years of the sentence imposed by law. A person sentenced
 24 pursuant to this section shall not be eligible for parole,
 25 unless the person is medically paroled pursuant to section
 26 906.19, until the person has served the minimum sentence of
 27 confinement imposed by this section.

28 Sec. 8. Section 902.8, Code 2003, is amended to read as
 29 follows:

30 902.8 MINIMUM SENTENCE -- HABITUAL OFFENDER.

31 An A habitual offender is any person convicted of a class
 32 "C" or a class "D" felony, who has twice before been convicted
 33 of any felony in a court of this or any other state, or of the
 34 United States. An offense is a felony if, by the law under
 35 which the person is convicted, it is so classified at the time

1 of the person's conviction. A person sentenced as an habitual
2 offender shall not be eligible for parole unless medically
3 paroled pursuant to section 906.19, or until the person has
4 served the minimum sentence of confinement of three years.

5 Sec. 9. Section 902.8A, Code 2003, is amended to read as
6 follows:

7 902.8A MINIMUM SENTENCE FOR CONSPIRING TO MANUFACTURE, OR
8 DELIVERY OF, AMPHETAMINE OR METHAMPHETAMINE TO A MINOR.

9 A person who has been convicted for a first violation under
10 section 124.401D shall not be eligible for parole unless
11 medically paroled pursuant to section 906.19, or until the
12 person has served a minimum term of confinement of ten years.

13 Sec. 10. Section 902.11, unnumbered paragraph 1, Code
14 Supplement 2003, is amended to read as follows:

15 A person serving a sentence for conviction of a felony, who
16 has a criminal record of one or more prior convictions for a
17 forcible felony or a crime of a similar gravity in this or any
18 other state, shall be denied parole or work release unless
19 medically paroled pursuant to section 906.19, or unless the
20 person has served at least one-half of the maximum term of the
21 defendant's sentence. However, the mandatory sentence
22 provided for by this section does not apply if either of the
23 following apply:

24 Sec. 11. Section 902.12, unnumbered paragraph 1, Code
25 Supplement 2003, is amended to read as follows:

26 A person serving a sentence for conviction of the following
27 felonies shall be denied parole or work release unless the
28 person has served at least seven-tenths of the maximum term of
29 the person's sentence or the person has been medically paroled
30 pursuant to section 906.19:

31 EXPLANATION

32 This bill relates to providing medical parole to a person
33 committed to the custody of the department of corrections.

34 DIVISION I -- Under the division, any person committed to
35 the custody of the department of corrections including

1 offenders serving a mandatory minimum sentence, an enhanced
 2 sentence, a sentence which limits the person's parole
 3 eligibility, a person serving a class "A" felony sentence, or
 4 serving a sentence under section 902.12, may be eligible for
 5 medical parole. The division provides that a person committed
 6 to the custody of the department of corrections shall be
 7 immediately eligible for medical parole under the following
 8 circumstances: (1) the person suffers from a chronic
 9 infirmity, illness, or disease related to aging; (2) the
 10 person has an existing medical condition which is permanent
 11 and is physically or mentally incapacitating; or (3) the
 12 person is terminally ill.

13 If the board of parole under the division orders the person
 14 released on medical parole, the department of corrections in
 15 cooperation with the board and the judicial district
 16 department of correctional services shall determine the level
 17 of appropriate supervision of the person. In addition to any
 18 other terms and conditions of supervision, a person on medical
 19 parole shall have periodic medical evaluations at intervals to
 20 be determined by the board of parole at the time of release.

21 The division also provides that if the board of parole
 22 finds a change in circumstances or discovers new information
 23 concerning a person who has been released on medical parole,
 24 the board may rescind the medical parole or revise the
 25 previously granted parole release date.

26 If a person is released on medical parole pursuant to the
 27 division and applies for public assistance, including medical
 28 assistance, the department of corrections shall forward the
 29 application for assistance to the department of human
 30 services, and advise the board of parole that an application
 31 for assistance has been made.

32 The division provides that the department of human services
 33 shall, within 60 days of receipt of a medical parolee's
 34 application for assistance, determine the eligibility of the
 35 person for general assistance, public assistance, medical

S.F. _____ H.F. _____

1 assistance, or any type of assistance.

2 The division also provides that the department of human
3 services is responsible for the administrative costs of the
4 initial and any subsequent eligibility determination and for
5 the costs of any public assistance, including medical
6 assistance, following a person's release on medical parole for
7 as long as the person is eligible.

8 DIVISION II -- The division amends various Code sections to
9 conform with the changes in Division I.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35