

FILED APR 16 '03

SENATE FILE 448
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 360)
(SUCCESSOR TO SSB 1097)

Passed Senate, Date 4/24/03 Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the department of corrections and its duties
2 regarding treatment and education of inmates at various
3 correctional facilities, release of presentence reports,
4 optional inmate treatment and education provision, expansion
5 of and appeals regarding earned time credits, change to the
6 inmate savings and inmate telephone rebate fund, and payment
7 of supervision fees.

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

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SF 448

1 Section 1. Section 901.4, Code 2003, is amended to read as
2 follows:

3 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL --
4 DISTRIBUTION.

5 The presentence investigation report is confidential and
6 the court shall provide safeguards to ensure its
7 confidentiality, including but not limited to sealing the
8 report, which may be opened only by further court order. At
9 least three days prior to the date set for sentencing, the
10 court shall serve all of the presentence investigation report
11 upon the defendant's attorney and the attorney for the state,
12 and the report shall remain confidential except upon court
13 order. However, the court may conceal the identity of the
14 person who provided confidential information. The report of a
15 medical examination or psychological or psychiatric evaluation
16 shall be made available to the attorney for the state and to
17 the defendant upon request. The reports are part of the
18 record but shall be sealed and opened only on order of the
19 court. If the defendant is committed to the custody of the
20 Iowa department of corrections and is not a class "A" felon, a
21 copy of the presentence investigation report shall be
22 forwarded to the director with the order of commitment by the
23 clerk of the district court and to the board of parole at the
24 time of commitment. The Pursuant to section 904.602, the
25 presentence investigation report may also be released by the
26 department of corrections or a judicial district department of
27 correctional services ~~pursuant-to-section-904-602~~ to another
28 jurisdiction for the purpose of providing interstate probation
29 and parole compact services or evaluations, or to a substance
30 abuse or mental health services provider when referring a
31 defendant for services. The defendant or the defendant's
32 attorney may file with the presentence investigation report, a
33 denial or refutation of the allegations, or both, contained in
34 the report. The denial or refutation shall be included in the
35 report. If the person is sentenced for an offense which

1 requires registration under chapter 692A, the court shall
2 release the report to the department which is responsible
3 under section 692A.13A for performing the assessment of risk.

4 Sec. 2. Section 901B.1, subsection 1, paragraph c,
5 subparagraph (5), Code 2003, is amended to read as follows:

6 (5) A substance abuse treatment facility as established
7 and operated by the Iowa department of public health or the
8 department of corrections.

9 Sec. 3. Section 901B.1, subsection 3, unnumbered paragraph
10 1, Code 2003, is amended to read as follows:

11 Each judicial district and judicial district department of
12 correctional services shall, if sufficient funding is
13 available, implement an intermediate criminal sanctions
14 program by July 1, 2001. An intermediate criminal sanctions
15 program shall consist of only levels two, three, and sublevels
16 one and three of level four of the corrections continuum and
17 shall be operated in accordance with an intermediate criminal
18 sanctions plan adopted by the chief judge of the judicial
19 district and the director of the judicial district department
20 of correctional services. The plan adopted shall be designed
21 to reduce probation revocations to prison through the use of
22 incremental, community-based sanctions for probation
23 violations.

24 Sec. 4. Section 903A.2, subsection 1, paragraph a, Code
25 2003, is amended to read as follows:

26 a. Category "A" sentences are those sentences which are
27 not subject to a maximum accumulation of earned time of
28 fifteen percent of the total sentence of confinement under
29 section 902.12. To the extent provided in subsection 5,
30 category "A" sentences also include life sentences imposed
31 under section 902.1. An inmate of an institution under the
32 control of the department of corrections who is serving a
33 category "A" sentence is eligible for a reduction of sentence
34 equal to one and two-tenths days for each day the inmate
35 demonstrates good conduct and satisfactorily participates in

1 any program or placement status identified by the director to
2 earn the reduction. The programs include but are not limited
3 to the following:

- 4 (1) Employment in the institution.
- 5 (2) Iowa state industries.
- 6 (3) An employment program established by the director.
- 7 (4) A treatment program established by the director.
- 8 (5) An inmate educational program approved by the
9 director.

10 An inmate serving a category "A" sentence is eligible for
11 an additional reduction of sentence of up to three hundred
12 sixty-five days of the full term of the sentence of the inmate
13 for exemplary acts. In accordance with section 903A.4, the
14 director shall by policy identify what constitutes an
15 exemplary act that may warrant an additional reduction of
16 sentence.

17 Sec. 5. Section 903A.3, subsection 2, Code 2003, is
18 amended to read as follows:

19 2. The orders of the administrative law judge are subject
20 to appeal to the superintendent or warden of the institution,
21 or the superintendent's or warden's designee, who may either
22 affirm, modify, remand for correction of procedural errors, or
23 reverse an order. However, sanctions shall not be increased
24 on appeal. ~~A decision of the superintendent, warden, or~~
25 ~~designee is subject to review by the director of the Iowa~~
26 ~~department of corrections who may either affirm, modify,~~
27 ~~remand for correction of procedural errors, or reverse the~~
28 ~~decision. -- However, sanctions shall not be increased on~~
29 ~~review.~~

30 Sec. 6. Section 904.108, subsection 1, paragraph d, Code
31 2003, is amended to read as follows:

32 d. Establish If sufficient funding is available, establish
33 and maintain acceptable standards of treatment, training,
34 education, and rehabilitation in the various state penal and
35 corrective institutions which shall include habilitative

1 services and treatment for offenders with mental retardation.
2 For the purposes of this paragraph, "habilitative services and
3 treatment" means medical, mental health, social, educational,
4 counseling, and other services which will assist a person with
5 mental retardation to become self-reliant. However, If
6 sufficient funding is available, the director may also provide
7 rehabilitative treatment and services to other persons who
8 require the services. The director shall identify all
9 individuals entering the correctional system who are persons
10 with mental retardation, as defined in section 222.2,
11 subsection 4. Identification shall be made by a qualified
12 professional in the area of mental retardation. In assigning
13 an offender with mental retardation, or an offender with an
14 inadequately developed intelligence or with impaired mental
15 abilities, to a correctional facility, the director shall
16 consider both the program needs and the security needs of the
17 offender. The director shall consult with the department of
18 human services in providing habilitative services and
19 treatment to offenders with mental illness or mental
20 retardation. The director may enter into agreements with the
21 department of human services to utilize mental health
22 institutions and share staff and resources for purposes of
23 providing habilitative services and treatment, as well as
24 providing other special needs programming. Any agreement to
25 utilize mental health institutions and to share staff and
26 resources shall provide that the costs of the habilitative
27 services and treatment shall be paid from state funds. Not
28 later than twenty days prior to entering into any agreement to
29 utilize mental health institution staff and resources, other
30 than the use of a building or facility, for purposes of
31 providing habilitative services and treatment, as well as
32 other special needs programming, the directors of the
33 departments of corrections and human services shall each
34 notify the chairpersons and ranking members of the joint
35 appropriations subcommittees that last handled the

1 appropriation for their respective departments of the pending
2 agreement. Use of a building or facility shall require
3 approval of the general assembly if the general assembly is in
4 session or, if the general assembly is not in session, the
5 legislative council may grant temporary authority, which shall
6 be subject to final approval of the general assembly during
7 the next succeeding legislative session.

8 Sec. 7. Section 904.503, subsection 2, Code 2003, is
9 amended to read as follows:

10 2. When the director has cause to believe that an inmate
11 in a state correctional institution is mentally ill, the Iowa
12 department of corrections may cause the inmate to be
13 transferred to the Iowa medical and classification center, or
14 to another appropriate facility within the department, for
15 examination, diagnosis, or treatment. The inmate shall be
16 confined at that institution center or facility or a state
17 hospital for persons with mental illness until the expiration
18 of the inmate's sentence or until the inmate is pronounced in
19 good mental health. If the inmate is pronounced in good
20 mental health before the expiration of the inmate's sentence,
21 the inmate shall be returned to the state correctional
22 institution until the expiration of the inmate's sentence.

23 Sec. 8. Section 904.508, subsection 2, Code 2003, is
24 amended to read as follows:

25 2. ~~The Pursuant to section 904.702, the~~ director shall
26 establish and maintain an inmate savings fund in an interest-
27 bearing account for the deposit of all or part of an inmate's
28 allowances, ~~as provided in section 904.702~~ and amounts sent to
29 the inmate from a source other than the department. All or
30 part of an inmate's allowances and amounts from a source other
31 than the department shall be deposited into the savings fund,
32 until the inmate's deposit is equal to ~~the amount due the~~
33 ~~inmate upon discharge, parole, or placement on work release,~~
34 one hundred dollars as provided in section 906.9. If an
35 inmate's deposits are equal this amount to or in excess of one

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

20 Sec. 9. Section 904.508A, Code 2003, is amended to read as
21 follows:

22 904.508A INMATE TELEPHONE REBATE FUND.

23 The department is authorized to establish and maintain an
24 inmate telephone rebate fund ~~in each institution~~ for the
25 deposit of moneys received for inmate telephone rebates. All
26 funds deposited in this fund shall be used for the benefit of
27 inmates. The director shall adopt rules providing for the
28 disbursement of moneys from the fund.

29 Sec. 10. Section 904.513, subsection 1, paragraph b,
30 subparagraph (4), Code 2003, is amended to read as follows:

31 (4) Assignment may also be made on the basis of the
32 offender's treatment program performance, as a disciplinary
33 measure, for medical needs, and for space availability at
34 community residential facilities. If there is insufficient
35 space at a community residential facility, the court may order

1 an offender to be released to the supervision of the judicial
2 district department of correctional services, or held in jail,
3 or committed to the custody of the director of the department
4 of corrections for assignment to an appropriate correctional
5 facility until there is sufficient space at a community
6 residential facility.

7 Sec. 11. Section 904.702, unnumbered paragraph 1, Code
8 2003, is amended to read as follows:

9 If allowances are paid pursuant to section 904.701, the
10 director shall establish an inmate account, for deposit of
11 those allowances and for deposit of moneys sent to the inmate
12 from a source other than the department of corrections. The
13 director may deduct an amount, not to exceed ten percent of
14 the amount of the allowance, unless the inmate requests a
15 larger amount, to be deposited into the inmate savings fund as
16 required under section 904.508, subsection 2. In addition to
17 deducting a portion of the allowance, the director may also
18 deduct from an inmate account any amount sent to the inmate
19 from a source other than the department of corrections for
20 deposit in the inmate savings fund as required under section
21 904.508, subsection 2, until the amount in the fund equals the
22 amount due the inmate upon discharge, parole, or placement on
23 work release. The director shall deduct from the inmate
24 account an amount established by the inmate's restitution plan
25 of payment. The director shall also deduct from any remaining
26 account balance an amount sufficient to pay all or part of any
27 judgment against the inmate, including but not limited to
28 judgments for taxes and child support, and court costs and
29 fees assessed either as a result of the inmate's confinement
30 or amounts required to be paid under section 610A.1. Written
31 notice of the amount of the deduction shall be given to the
32 inmate, who shall have five days after receipt of the notice
33 to submit in writing any and all objections to the deduction
34 to the director, who shall consider the objections prior to
35 transmitting the deducted amount to the clerk of the district

1 court. The director need give only one notice for each action
2 or appeal under section 610A.1 for which periodic deductions
3 are to be made. The director shall next deduct from any
4 remaining account balance an amount sufficient to pay all or
5 part of any costs assessed against the inmate for misconduct
6 or damage to the property of others. The director may deduct
7 from the inmate's account an amount sufficient to pay for the
8 inmate's share of the costs of health services requested by
9 the inmate and for the treatment of injuries inflicted by the
10 inmate on the inmate or others. The director may deduct and
11 disburse an amount sufficient for industries' programs to
12 qualify under the eligibility requirements established in the
13 Justice Assistance Act of 1984, Pub. L. No. 98-473, including
14 an amount to pay all or part of the cost of the inmate's
15 incarceration. The director may pay all or any part of
16 remaining allowances paid pursuant to section 904.701 directly
17 to a dependent of the inmate, or may deposit the allowance to
18 the account of the inmate, or may deposit a portion and allow
19 the inmate a portion for the inmate's personal use.

20 Sec. 12. Section 905.7, unnumbered paragraph 1, Code 2003,
21 is amended to read as follows:

22 The Iowa department of corrections shall provide assistance
23 and support to the respective judicial districts to aid them
24 in complying with this chapter, and shall promulgate rules
25 pursuant to chapter 17A establishing guidelines in accordance
26 with and in furtherance of the purposes of this chapter. The
27 guidelines shall include, but need not be limited to,
28 requirements that each district department, if sufficient
29 funding is available:

30 Sec. 13. Section 907.9, subsections 1, 2, and 4, Code
31 2003, are amended to read as follows:

32 1. At any time that the court determines that the purposes
33 of probation have been fulfilled and the fees imposed under
34 section 905.14 have been paid ~~to-or-waived-by-the-judicial~~
35 ~~district-department-of-correctional-services~~ or on condition

1 that unpaid supervision fees be paid, the court may order the
2 discharge of a person from probation.

3 2. At any time that a probation officer determines that
4 the purposes of probation have been fulfilled and the fees
5 imposed under section 905.14 have been paid ~~to-or-waived-by~~
6 ~~the-judicial-district-department-of-correctional-services~~ or
7 on condition that unpaid supervision fees be paid, the officer
8 may order the discharge of a person from probation after
9 approval of the district director and notification of the
10 sentencing court and the county attorney who prosecuted the
11 case.

12 4. At the expiration of the period of probation and if the
13 fees imposed under section 905.14 have been paid ~~to-or-waived~~
14 ~~by-the-judicial-district-department-of-correctional-services~~
15 or on condition that unpaid supervision fees be paid, the
16 court shall order the discharge of the person from probation,
17 and the court shall forward to the governor a recommendation
18 for or against restoration of citizenship rights to that
19 person. A person who has been discharged from probation shall
20 no longer be held to answer for the person's offense. Upon
21 discharge from probation, if judgment has been deferred under
22 section 907.3, the court's criminal record with reference to
23 the deferred judgment shall be expunged. The record
24 maintained by the state court administrator as required by
25 section 907.4 shall not be expunged. The court's record shall
26 not be expunged in any other circumstances.

27 EXPLANATION

28 This bill relates to the department of corrections and
29 inmates committed to the custody of the director of the
30 department of corrections.

31 Code section 901.4, relating to the confidentiality of a
32 presentence investigation report, is amended. The bill
33 provides that the department of corrections and a judicial
34 district department of correctional services may release a
35 presentence investigation report to a substance abuse or

1 mental health service provider when referring an inmate for
2 services. A presentence investigation report generally
3 contains information about the inmate, the crime committed,
4 and the impact on the victim.

5 Code sections 901B.1, 904.108, and 905.7, relating to
6 intermediate criminal sanctions programs, inmate education and
7 treatment, and assistance by the department of corrections to
8 the judicial districts, are amended. The bill provides that
9 intermediate criminal sanctions programs, inmate education and
10 treatment, and assistance by the department of corrections to
11 the judicial districts are contingent upon sufficient funding.

12 Code section 901B.1(1)(c)(5) relating to a substance abuse
13 treatment facility operated by the Iowa department of public
14 health is amended. The bill permits a substance abuse
15 facility to be operated by the department of corrections.

16 Code section 903A.2, relating to the accumulation of earned
17 time credits by an inmate, is amended. Under the bill, an
18 inmate may earn up to an additional 365-day reduction of the
19 remaining balance of the inmate's sentence if the inmate
20 commits an exemplary act. The bill provides that the director
21 shall by policy identify what constitutes an exemplary act
22 which warrants a reduction of sentence. The amendment to Code
23 section 903A.2 does not apply to an inmate serving an 85
24 percent sentence.

25 Code section 903A.3, relating to inmate appeals over loss
26 of or forfeited earned time, is amended. The bill changes the
27 inmate appeals process. Current law provides an inmate may
28 appeal an order of an administrative law judge to the
29 superintendent or warden of the institution, and if the inmate
30 is not satisfied with the ruling of the superintendent or
31 warden, the inmate may appeal to the director of the
32 department of corrections. The bill prohibits appeals
33 directly to the director, thus the final appeal of an inmate
34 is to the superintendent or warden before any action may be
35 filed in district court.

1 Code section 904.503(2), relating to the treatment of
2 mentally ill inmates, is amended. The bill provides that a
3 mentally ill inmate may be treated at the Iowa medical and
4 classification center at Oakdale, or another appropriate
5 facility within the department of corrections. Current law
6 provides that a mentally ill inmate be treated at the Iowa
7 medical and classification center at Oakdale.

8 Code sections 904.508 and 904.702, relating to an inmate
9 savings fund, are amended. The bill provides that moneys sent
10 to an inmate from a source other than the department of
11 corrections in addition to a portion of inmate allowances
12 shall be deposited into the inmate savings fund until the
13 moneys attributable to the inmate equal \$100. The bill and
14 current law provide that an inmate shall receive \$100 from the
15 inmate savings fund upon discharge or parole, or \$50 upon
16 assignment to work release, even if the amount of the inmate's
17 moneys in the fund is less than \$100. If an inmate possesses
18 funds in excess of \$100 in the fund, the bill and current law
19 provide for disbursement of these funds pursuant to Code
20 section 904.702.

21 Code section 904.508A, relating to the inmate telephone
22 rebate fund, is amended. The bill eliminates the requirement
23 that the inmate telephone rebate fund be established and
24 maintained in each correctional facility.

25 Code section 904.513, relating to placement of persons
26 convicted of a third offense of operating while intoxicated,
27 is amended. The bill provides that a person convicted of a
28 third offense of operating while intoxicated, who is assigned
29 to a community residential treatment facility and there is
30 insufficient space at the facility, may be committed to the
31 custody of the director of the department of corrections for
32 assignment at a correctional facility until there is
33 sufficient space at the residential treatment facility.

34 Code section 907.9, relating to the payment of supervision
35 fees pursuant to Code section 905.14, is amended. The bill

1 provides that a person on probation may be discharged from
2 probation on condition that supervision fees assessed pursuant
3 to Code section 905.14 are paid.

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S-3300

1 Amend Senate File 448 as follows:

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

4 "Section 1. Section 321J.2, subsection 2,
5 paragraph a, subparagraph (1), Code 2003, is amended
6 to read as follows:

7 (1) Imprisonment in the county jail for not less
8 than forty-eight hours, to be served as ordered by the
9 court, less credit for any time the person was
10 confined in a jail or detention facility following
11 arrest or for any time the person spent in a court-
12 ordered operating-while-intoxicated program that
13 provides law enforcement security. However, the
14 court, in ordering service of the sentence and in its
15 discretion, may accommodate the defendant's work
16 schedule.

17 Sec. 2. NEW SECTION. 811.2A PRETRIAL RELEASE.

18 A person who has been arrested and is released
19 pursuant to pretrial release guidelines and who is
20 subsequently rearrested for an offense greater than a
21 serious misdemeanor while under a plan of pretrial
22 release shall not be eligible for another release
23 pursuant to pretrial release guidelines. However, the
24 person may be admitted to bail if eligible pursuant to
25 section 811.1."

26 2. Page 5, by inserting after line 7 the
27 following:

28 "Sec. ____ . NEW SECTION. 904.117 INTERSTATE
29 COMPACT FUND.

30 An interstate compact fund is established under the
31 control of the department. All interstate compact
32 fees collected by the department pursuant to section
33 907B.5 shall be deposited into the fund and the moneys
34 shall be used by the department to offset the costs of
35 complying with the interstate compact for adult
36 offender supervision in chapter 907B. Notwithstanding
37 section 8.33, moneys remaining in the fund at the end
38 of a fiscal year shall not revert to the general fund
39 of the state. Notwithstanding section 12C.7, interest
40 and earnings deposited in the fund shall be credited
41 to the fund."

42 3. Page 8, by inserting after line 29 the
43 following:

44 "Sec. ____ . Section 907.4, Code 2003, is amended to
45 read as follows:

46 907.4 DEFERRED JUDGMENT DOCKET.

47 A deferment of judgment under section 907.3 shall
48 be reported promptly by the clerk of the district
49 court, or the clerk's designee, to the state court
50 administrator for entry in the deferred judgment

S-3300

1 docket. The docket shall contain a permanent record
2 of the deferred judgment including the name and date
3 of birth of the defendant, the district court docket
4 number, the nature of the offense, and the date of the
5 deferred judgment. Before granting deferred judgment
6 in any case, the court shall request of the state
7 court administrator a search of the deferred judgment
8 docket and shall consider any prior record of a
9 deferred judgment against the defendant. The
10 permanent record provided for in this section is a
11 confidential record exempted from public access under
12 section 22.7 and shall be available only to justices
13 of the supreme court, judges of the court of appeals,
14 district judges, district associate judges, judicial
15 magistrates, clerks of the district court, judicial
16 district departments of correctional services, and
17 county attorneys requesting information pursuant to
18 this section, or the designee of a justice, judge,
19 magistrate, clerk, judicial district department of
20 correctional services, or county attorney."

21 4. Page 9, by inserting after line 26, the
22 following:

23 "Sec. ____ . NEW SECTION. 907B.4 CRIMINAL
24 OFFENSES.

25 1. A person on parole, probation, or who is under
26 any other form of correctional supervision in another
27 compacting state, shall not reside or remain in this
28 state for a period greater than three days in
29 violation of the terms or rules of the interstate
30 compact for adult offender supervision.

31 2. A person accepted by this state under the
32 interstate compact for adult offender supervision
33 shall provide a current address to and register with
34 the judicial district department of correctional
35 services in which the person resides. If a person
36 changes residences, the person shall notify the
37 person's probation or parole officer within three days
38 of changing residences.

39 3. A person accepted by this state under the
40 interstate compact for adult offender supervision
41 shall not violate the terms and conditions of
42 supervision set by the judicial district department of
43 correctional services supervising the person.

44 4. A person shall not knowingly provide materially
45 false information during an investigation to determine
46 the appropriateness of placement or acceptance under
47 the interstate compact for adult offender supervision.

48 5. A person who violates this section commits a
49 serious misdemeanor.

50 Sec. ____ . NEW SECTION. 907B.5 INTERSTATE COMPACT

1 FEE.

2 The department of corrections may assess a fee, not
3 to exceed one hundred dollars, for an application to
4 transfer out of the state under the interstate compact
5 for adult offender supervision. The fee may be waived
6 by the department. The moneys collected pursuant to
7 this section shall be deposited into the interstate
8 compact fund established in section 904.117 and shall
9 be used to offset the costs of complying with the
10 interstate compact for adult offender supervision.

11 Sec. _____. Section 910.3B, Code 2003, is amended to
12 read as follows:

13 910.3B RESTITUTION FOR DEATH OF VICTIM.

14 1. In all criminal cases in which the offender is
15 convicted of a felony in which the act or acts
16 committed by the offender caused the death of another
17 person, in addition to the amount determined to be
18 payable and ordered to be paid to a victim for
19 pecuniary damages, as defined under section 910.1, and
20 determined under section 910.3, the court shall also
21 order the offender to pay at least one hundred fifty
22 thousand dollars in restitution to the victim's estate
23 if the victim died testate. If the victim died
24 intestate the court shall order the offender to pay
25 the restitution to the victim's heirs at law as
26 determined pursuant to section 633.210. The
27 obligation to pay the additional amount shall not be
28 dischargeable in any proceeding under the federal
29 Bankruptcy Act. Payment of the additional amount
30 shall have the same priority as payment of a victim's
31 pecuniary damages under section 910.2, in the
32 offender's plan for restitution.

33 2. An award under this section does not preclude
34 or supersede the right of a victim's estate or heirs
35 at law to bring a civil action against the offender
36 for damages arising out of the same facts or event.
37 However, no evidence relating to the entry of the
38 judgment against the offender pursuant to this section
39 or the amount of the award ordered pursuant to this
40 section shall be permitted to be introduced in any
41 civil action for damages arising out of the same facts
42 or event.

43 3. An offender who is ordered to pay a victim's
44 estate or heirs at law under this section is precluded
45 from denying the elements of the felony offense which
46 resulted in the order for payment in any subsequent
47 civil action for damages arising out of the same facts
48 or event.

49 Sec. _____. Section 915.100, subsection 2, paragraph
50 c, Code 2003, is amended to read as follows:

S-3300

Page 4

1 c. In cases where the act committed by an offender
2 causes the death of another person, in addition to the
3 amount ordered for payment of the victim's pecuniary
4 damages, the court shall also order the offender to
5 pay at least one hundred fifty thousand dollars in
6 restitution to the victim's estate or heirs at law,
7 pursuant to the provisions of section 910.3B."

8 5. Title page, line 1, by striking the words "the
9 department of corrections and its duties" and
10 inserting the following: "criminal offenders and
11 inmates".

12 6. Title page, line 2, by striking the word
13 "regarding" and inserting the following: "including
14 credit for time served by operating-while-intoxicated
15 offenders, pretrial release guidelines,".

16 7. Title page, lines 6 and 7, by striking the
17 words "and payment of supervision fees." and inserting
18 the following: ", expansion of the accessibility of
19 the deferred judgment docket, payment of supervision
20 fees, payment of restitution, creating criminal
21 offenses for persons under the interstate compact for
22 adult offender supervision, creating a fund, providing
23 for a fee, and providing penalties."

24 8. By renumbering as necessary.

By CHARLES W. LARSON, JR.
ROBERT E. DVORSKY
KEITH A. KREIMAN

S-3300 FILED APRIL 23, 2003

ack, filed 4/24/03

1 sanctions plan adopted by the chief judge of the judicial
2 district and the director of the judicial district department
3 of correctional services. The plan adopted shall be designed
4 to reduce probation revocations to prison through the use of
5 incremental, community-based sanctions for probation
6 violations.

7 Sec. 6. Section 903A.2, subsection 1, paragraph a, Code
8 2003, is amended to read as follows:

9 a. Category "A" sentences are those sentences which are
10 not subject to a maximum accumulation of earned time of
11 fifteen percent of the total sentence of confinement under
12 section 902.12. To the extent provided in subsection 5,
13 category "A" sentences also include life sentences imposed
14 under section 902.1. An inmate of an institution under the
15 control of the department of corrections who is serving a
16 category "A" sentence is eligible for a reduction of sentence
17 equal to one and two-tenths days for each day the inmate
18 demonstrates good conduct and satisfactorily participates in
19 any program or placement status identified by the director to
20 earn the reduction. The programs include but are not limited
21 to the following:

- 22 (1) Employment in the institution.
- 23 (2) Iowa state industries.
- 24 (3) An employment program established by the director.
- 25 (4) A treatment program established by the director.
- 26 (5) An inmate educational program approved by the
27 director.

28 An inmate serving a category "A" sentence is eligible for
29 an additional reduction of sentence of up to three hundred
30 sixty-five days of the full term of the sentence of the inmate
31 for exemplary acts. In accordance with section 903A.4, the
32 director shall by policy identify what constitutes an
33 exemplary act that may warrant an additional reduction of
34 sentence.

35 Sec. 7. Section 903A.3, subsection 2, Code 2003, is

1 amended to read as follows:

2 2. The orders of the administrative law judge are subject
3 to appeal to the superintendent or warden of the institution,
4 or the superintendent's or warden's designee, who may either
5 affirm, modify, remand for correction of procedural errors, or
6 reverse an order. However, sanctions shall not be increased
7 on appeal. ~~A decision of the superintendent, warden, or~~
8 ~~designee is subject to review by the director of the Iowa~~
9 ~~department of corrections who may either affirm, modify,~~
10 ~~remand for correction of procedural errors, or reverse the~~
11 ~~decision. However, sanctions shall not be increased on~~
12 ~~review.~~

13 Sec. 8. Section 904.108, subsection 1, paragraph d, Code
14 2003, is amended to read as follows:

15 d. ~~Establish~~ If sufficient funding is available, establish
16 and maintain acceptable standards of treatment, training,
17 education, and rehabilitation in the various state penal and
18 corrective institutions which shall include habilitative
19 services and treatment for offenders with mental retardation.
20 For the purposes of this paragraph, "habilitative services and
21 treatment" means medical, mental health, social, educational,
22 counseling, and other services which will assist a person with
23 mental retardation to become self-reliant. However, If
24 sufficient funding is available, the director may also provide
25 rehabilitative treatment and services to other persons who
26 require the services. The director shall identify all
27 individuals entering the correctional system who are persons
28 with mental retardation, as defined in section 222.2,
29 subsection 4. Identification shall be made by a qualified
30 professional in the area of mental retardation. In assigning
31 an offender with mental retardation, or an offender with an
32 inadequately developed intelligence or with impaired mental
33 abilities, to a correctional facility, the director shall
34 consider both the program needs and the security needs of the
35 offender. The director shall consult with the department of

1 human services in providing habilitative services and
2 treatment to offenders with mental illness or mental
3 retardation. The director may enter into agreements with the
4 department of human services to utilize mental health
5 institutions and share staff and resources for purposes of
6 providing habilitative services and treatment, as well as
7 providing other special needs programming. Any agreement to
8 utilize mental health institutions and to share staff and
9 resources shall provide that the costs of the habilitative
10 services and treatment shall be paid from state funds. Not
11 later than twenty days prior to entering into any agreement to
12 utilize mental health institution staff and resources, other
13 than the use of a building or facility, for purposes of
14 providing habilitative services and treatment, as well as
15 other special needs programming, the directors of the
16 departments of corrections and human services shall each
17 notify the chairpersons and ranking members of the joint
18 appropriations subcommittees that last handled the
19 appropriation for their respective departments of the pending
20 agreement. Use of a building or facility shall require
21 approval of the general assembly if the general assembly is in
22 session or, if the general assembly is not in session, the
23 legislative council may grant temporary authority, which shall
24 be subject to final approval of the general assembly during
25 the next succeeding legislative session.

26 Sec. 9. NEW SECTION. 904.117 INTERSTATE COMPACT FUND.
27 An interstate compact fund is established under the control
28 of the department. All interstate compact fees collected by
29 the department pursuant to section 907B.5 shall be deposited
30 into the fund and the moneys shall be used by the department
31 to offset the costs of complying with the interstate compact
32 for adult offender supervision in chapter 907B.
33 Notwithstanding section 8.33, moneys remaining in the fund at
34 the end of a fiscal year shall not revert to the general fund,
35 of the state. Notwithstanding section 12C.7, interest and

1 earnings deposited in the fund shall be credited to the fund.

2 Sec. 10. Section 904.503, subsection 2, Code 2003, is
3 amended to read as follows:

4 2. When the director has cause to believe that an inmate
5 in a state correctional institution is mentally ill, the Iowa
6 department of corrections may cause the inmate to be
7 transferred to the Iowa medical and classification center, or
8 to another appropriate facility within the department, for
9 examination, diagnosis, or treatment. The inmate shall be
10 confined at that institution center or facility or a state
11 hospital for persons with mental illness until the expiration
12 of the inmate's sentence or until the inmate is pronounced in
13 good mental health. If the inmate is pronounced in good
14 mental health before the expiration of the inmate's sentence,
15 the inmate shall be returned to the state correctional
16 institution until the expiration of the inmate's sentence.

17 Sec. 11. Section 904.508, subsection 2, Code 2003, is
18 amended to read as follows:

19 2. The Pursuant to section 904.702, the director shall
20 establish and maintain an inmate savings fund in an interest-
21 bearing account for the deposit of all or part of an inmate's
22 allowances, ~~as provided in section 904.702~~ and amounts sent to
23 the inmate from a source other than the department. All or
24 part of an inmate's allowances and amounts from a source other
25 than the department shall be deposited into the savings fund,
26 until the inmate's deposit is equal to ~~the amount due the~~
27 ~~inmate upon discharge, parole, or placement on work release,~~
28 one hundred dollars as provided in section 906.9. If an
29 inmate's deposits are equal this amount to or in excess of one
30 hundred dollars, the inmate may voluntarily withdraw from the
31 savings fund. The director shall notify the inmate of this
32 right to withdraw and shall provide the inmate with a written
33 request form to facilitate the withdrawal. If the inmate
34 withdraws and the inmate's deposits exceed the amount due as
35 provided in section 906.9, the director shall disburse the

1 excess amount as provided for allowances under section
2 904.702, except the director shall not deposit the excess
3 amount in the inmate savings fund. If the inmate chooses to
4 continue to participate in the savings fund, the inmate's
5 deposits shall be returned to the inmate upon discharge,
6 parole, or placement on work release. Otherwise, the inmate's
7 deposits shall be disposed of as provided in subsection 3. An
8 inmate's deposits into the savings fund may be used to provide
9 the money due the inmate upon discharge, parole, or placement
10 on work release, as required under section 906.9. Interest
11 earned from 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. 12. Section 904.508A, Code 2003, is amended to read
15 as follows:

16 904.508A INMATE TELEPHONE REBATE FUND.

17 The department is authorized to establish and maintain an
18 inmate telephone rebate fund ~~in each institution~~ for the
19 deposit of moneys received for inmate telephone rebates. All
20 funds deposited in this fund shall be used for the benefit of
21 inmates. The director shall adopt rules providing for the
22 disbursement of moneys from the fund.

23 Sec. 13. Section 904.513, subsection 1, paragraph b,
24 subparagraph (4), Code 2003, is amended to read as follows:

25 (4) Assignment may also be made on the basis of the
26 offender's treatment program performance, as a disciplinary
27 measure, for medical needs, and for space availability at
28 community residential facilities. If there is insufficient
29 space at a community residential facility, the court may order
30 an offender to be released to the supervision of the judicial
31 district department of correctional services, ~~or held in jail,~~
32 or committed to the custody of the director of the department
33 of corrections for assignment to an appropriate correctional
34 facility until there is sufficient space at a community
35 residential facility.

1 Sec. 14. Section 904.702, unnumbered paragraph 1, Code
2 2003, is amended to read as follows:
3 If allowances are paid pursuant to section 904.701, the
4 director shall establish an inmate account, for deposit of
5 those allowances and for deposit of moneys sent to the inmate
6 from a source other than the department of corrections. The
7 director may deduct an amount, not to exceed ten percent of
8 the amount of the allowance, unless the inmate requests a
9 larger amount, to be deposited into the inmate savings fund as
10 required under section 904.508, subsection 2. In addition to
11 deducting a portion of the allowance, the director may also
12 deduct from an inmate account any amount sent to the inmate
13 from a source other than the department of corrections for
14 deposit in the inmate savings fund as required under section
15 904.508, subsection 2, until the amount in the fund equals the
16 amount due the inmate upon discharge, parole, or placement on
17 work release. The director shall deduct from the inmate
18 account an amount established by the inmate's restitution plan
19 of payment. The director shall also deduct from any remaining
20 account balance an amount sufficient to pay all or part of any
21 judgment against the inmate, including but not limited to
22 judgments for taxes and child support, and court costs and
23 fees assessed either as a result of the inmate's confinement
24 or amounts required to be paid under section 610A.1. Written
25 notice of the amount of the deduction shall be given to the
26 inmate, who shall have five days after receipt of the notice
27 to submit in writing any and all objections to the deduction
28 to the director, who shall consider the objections prior to
29 transmitting the deducted amount to the clerk of the district
30 court. The director need give only one notice for each action
31 or appeal under section 610A.1 for which periodic deductions
32 are to be made. The director shall next deduct from any
33 remaining account balance an amount sufficient to pay all or
34 part of any costs assessed against the inmate for misconduct
35 or damage to the property of others. The director may deduct

1 from the inmate's account an amount sufficient to pay for the
2 inmate's share of the costs of health services requested by
3 the inmate and for the treatment of injuries inflicted by the
4 inmate on the inmate or others. The director may deduct and
5 disburse an amount sufficient for industries' programs to
6 qualify under the eligibility requirements established in the
7 Justice Assistance Act of 1984, Pub. L. No. 98-473, including
8 an amount to pay all or part of the cost of the inmate's
9 incarceration. The director may pay all or any part of
10 remaining allowances paid pursuant to section 904.701 directly
11 to a dependent of the inmate, or may deposit the allowance to
12 the account of the inmate, or may deposit a portion and allow
13 the inmate a portion for the inmate's personal use.

14 Sec. 15. Section 905.7, unnumbered paragraph 1, Code 2003,
15 is amended to read as follows:

16 The Iowa department of corrections shall provide assistance
17 and support to the respective judicial districts to aid them
18 in complying with this chapter, and shall promulgate rules
19 pursuant to chapter 17A establishing guidelines in accordance
20 with and in furtherance of the purposes of this chapter. The
21 guidelines shall include, but need not be limited to,
22 requirements that each district department, if sufficient
23 funding is available:

24 Sec. 16. Section 907.4, Code 2003, is amended to read as
25 follows:

26 907.4 DEFERRED JUDGMENT DOCKET.

27 A deferment of judgment under section 907.3 shall be
28 reported promptly by the clerk of the district court, or the
29 clerk's designee, to the state court administrator for entry
30 in the deferred judgment docket. The docket shall contain a
31 permanent record of the deferred judgment including the name
32 and date of birth of the defendant, the district court docket
33 number, the nature of the offense, and the date of the
34 deferred judgment. Before granting deferred judgment in any
35 case, the court shall request of the state court administrator

1 a search of the deferred judgment docket and shall consider
2 any prior record of a deferred judgment against the defendant.
3 The permanent record provided for in this section is a
4 confidential record exempted from public access under section
5 22.7 and shall be available only to justices of the supreme
6 court, judges of the court of appeals, district judges,
7 district associate judges, judicial magistrates, clerks of the
8 district court, judicial district departments of correctional
9 services, and county attorneys requesting information pursuant
10 to this section, or the designee of a justice, judge,
11 magistrate, clerk, judicial district department of
12 correctional services, or county attorney.

13 ~~Sec. 17.~~ Section 907.9, subsections 1, 2, and 4, Code
14 2003, are amended to read as follows:

15 1. At any time that the court determines that the purposes
16 of probation have been fulfilled and the fees imposed under
17 section 905.14 have been paid ~~to-or-waived-by-the-judicial~~
18 ~~district-department-of-correctional-services~~ or on condition
19 that unpaid supervision fees be paid, the court may order the
20 discharge of a person from probation.

21 2. At any time that a probation officer determines that
22 the purposes of probation have been fulfilled and the fees
23 imposed under section 905.14 have been paid ~~to-or-waived-by~~
24 ~~the-judicial-district-department-of-correctional-services~~ or
25 on condition that unpaid supervision fees be paid, the officer
26 may order the discharge of a person from probation after
27 approval of the district director and notification of the
28 sentencing court and the county attorney who prosecuted the
29 case.

30 4. At the expiration of the period of probation and if the
31 fees imposed under section 905.14 have been paid ~~to-or-waived~~
32 ~~by-the-judicial-district-department-of-correctional-services~~
33 or on condition that unpaid supervision fees be paid, the
34 court shall order the discharge of the person from probation,
35 and the court shall forward to the governor a recommendation

1 for or against restoration of citizenship rights to that
2 person. A person who has been discharged from probation shall
3 no longer be held to answer for the person's offense. Upon
4 discharge from probation, if judgment has been deferred under
5 section 907.3, the court's criminal record with reference to
6 the deferred judgment shall be expunged. The record
7 maintained by the state court administrator as required by
8 section 907.4 shall not be expunged. The court's record shall
9 not be expunged in any other circumstances.

10 Sec. 18. NEW SECTION. 907B.4 CRIMINAL OFFENSES.

11 1. A person on parole, probation, or who is under any
12 other form of correctional supervision in another compacting
13 state, shall not reside or remain in this state for a period
14 greater than three days in violation of the terms or rules of
15 the interstate compact for adult offender supervision.

16 2. A person accepted by this state under the interstate
17 compact for adult offender supervision shall provide a current
18 address to and register with the judicial district department
19 of correctional services in which the person resides. If a
20 person changes residences, the person shall notify the
21 person's probation or parole officer within three days of
22 changing residences.

23 3. A person accepted by this state under the interstate
24 compact for adult offender supervision shall not violate the
25 terms and conditions of supervision set by the judicial
26 district department of correctional services supervising the
27 person.

28 4. A person shall not knowingly provide materially false
29 information during an investigation to determine the
30 appropriateness of placement or acceptance under the
31 interstate compact for adult offender supervision.

32 5. A person who violates this section commits a serious
33 misdemeanor.

34 Sec. 19. NEW SECTION. 907B.5 INTERSTATE COMPACT FEE.

35 The department of corrections may assess a fee, not to

1 exceed one hundred dollars, for an application to transfer out
2 of the state under the interstate compact for adult offender
3 supervision. The fee may be waived by the department. The
4 moneys collected pursuant to this section shall be deposited
5 into the interstate compact fund established in section
6 904.117 and shall be used to offset the costs of complying
7 with the interstate compact for adult offender supervision.

8 Sec. 20. Section 910.3B, Code 2003, is amended to read as
9 follows:

10 910.3B RESTITUTION FOR DEATH OF VICTIM.

11 1. In all criminal cases in which the offender is
12 convicted of a felony in which the act or acts committed by
13 the offender caused the death of another person, in addition
14 to the amount determined to be payable and ordered to be paid
15 to a victim for pecuniary damages, as defined under section
16 910.1, and determined under section 910.3, the court shall
17 also order the offender to pay at least one hundred fifty
18 thousand dollars in restitution to the victim's estate if the
19 victim died testate. If the victim died intestate the court
20 shall order the offender to pay the restitution to the
21 victim's heirs at law as determined pursuant to section
22 633.210. The obligation to pay the additional amount shall
23 not be dischargeable in any proceeding under the federal
24 Bankruptcy Act. Payment of the additional amount shall have
25 the same priority as payment of a victim's pecuniary damages
26 under section 910.2, in the offender's plan for restitution.

27 2. An award under this section does not preclude or
28 supersede the right of a victim's estate or heirs at law to
29 bring a civil action against the offender for damages arising
30 out of the same facts or event. However, no evidence relating
31 to the entry of the judgment against the offender pursuant to
32 this section or the amount of the award ordered pursuant to
33 this section shall be permitted to be introduced in any civil
34 action for damages arising out of the same facts or event.

35 3. An offender who is ordered to pay a victim's estate or

1 heirs at law under this section is precluded from denying the
2 elements of the felony offense which resulted in the order for
3 payment in any subsequent civil action for damages arising out
4 of the same facts or event.

5 Sec. 21. Section 915.100, subsection 2, paragraph c, Code
6 2003, is amended to read as follows:

7 c. In cases where the act committed by an offender causes
8 the death of another person, in addition to the amount ordered
9 for payment of the victim's pecuniary damages, the court shall
10 also order the offender to pay at least one hundred fifty
11 thousand dollars in restitution to the victim's estate or
12 heirs at law, pursuant to the provisions of section 910.3B.

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SENATE FILE 448

H-1585

- 1 Amend Senate File 448, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 12 through 18, and
4 inserting the following:
5 "A person, who has been released under a plan of
6 pretrial release or on the person's own recognizance
7 and who is subsequently arrested for a new criminal
8 offense while under the plan of pretrial release or
9 released on the person's own recognizance, shall not
10 be eligible for another release pursuant to pretrial
11 release guidelines or released on the person's own
12 recognizance, if all of the following apply:
13 1. The arrest for the new criminal offense is
14 based on a set of facts or an event that is different
15 than involved in the earlier arrest.
16 2. The new criminal offense is classified as
17 greater than a serious misdemeanor.
18 However, a person may be admitted to bail if
19 eligible pursuant to section 811.1."
20 2. By striking page 2, line 27, through page 3,
21 line 6.
22 3. By striking page 4, line 13, through page 5,
23 line 25.
24 4. Page 6, line 22, by inserting after the word
25 "amounts" the following: ", except amounts directed
26 to be deposited in the inmate telephone fund
27 established in section 904.508A,".
28 5. Page 6, line 24, by inserting after the word
29 "amounts" the following: ", except amounts directed
30 to be deposited in the inmate telephone fund
31 established in section 904.508A,".
32 6. Page 7, line 18, by striking the word "rebate"
33 and inserting the following: "~~rebate~~".
34 7. Page 7, line 19, by striking the word
35 "rebates" and inserting the following: "~~rebates~~
36 calls".
37 8. Page 8, line 12, by inserting after the word
38 "account" the following: ", except amounts directed
39 to be deposited in the inmate telephone fund
40 established in section 904.508A,".
41 9. Page 9, by striking lines 14 through 23.
42 10. Page 11, by striking lines 10 through 33.
43 11. Title page, lines 5 and 6, by striking the
44 words "optional inmate treatment and education
45 provision,".
46 12. Title page, by striking lines 10 and 11, and
47 inserting the following: "of restitution,".

By HORBACH of Tama

H-1585 FILED MAY 1, 2003