

MAR 16 2006
WAYS & MEANS CALENDAR

HOUSE FILE 2750
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2494)

(SUCCESSOR TO HSB 632)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to the practices and procedures of the department
2 of corrections and the judicial district departments of
3 correctional services, including increasing the penalty for
4 sexual misconduct by an officer, employee, or agent of the
5 department of corrections or a judicial district department of
6 correctional services, and providing for a fee.

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

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HF 2750

TLSB 5327HZ 81

jm/gg/14

S.F. _____

H.F.

2750

1 Section 1. Section 709.16, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. An officer, employee, contractor, vendor, volunteer, or
4 agent of the department of corrections, or an officer,
5 employee, or agent of a judicial district department of
6 correctional services, who engages in a sex act with an
7 individual committed to the custody of the department of
8 corrections or a judicial district department of correctional
9 services commits ~~an aggravated misdemeanor~~ a class "D" felony.

10 Sec. 2. Section 903A.5, Code 2005, is amended to read as
11 follows:

12 903A.5 TIME TO BE SERVED -- CREDIT.

13 1. An inmate shall not be discharged from the custody of
14 the director of the Iowa department of corrections until the
15 inmate has served the full term for which the inmate was
16 sentenced, less earned time and other credits earned and not
17 forfeited, unless the inmate is pardoned or otherwise legally
18 released. Earned time accrued and not forfeited shall apply
19 to reduce a mandatory minimum sentence being served pursuant
20 to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11.
21 An inmate shall be deemed to be serving the sentence from the
22 day on which the inmate is received into the institution. If
23 an inmate was confined to a county jail or other correctional
24 or mental facility at any time prior to sentencing, or after
25 sentencing but prior to the case having been decided on
26 appeal, because of failure to furnish bail or because of being
27 charged with a nonbailable offense, the inmate shall be given
28 credit for the days already served upon the term of the
29 sentence. However, if a person commits any offense while
30 confined in a county jail or other correctional or mental
31 health facility, the person shall not be granted jail credit
32 for that offense. Unless the inmate was confined in a
33 correctional facility, the sheriff of the county in which the
34 inmate was confined shall certify to the clerk of the district
35 court from which the inmate was sentenced and to the

1 department of corrections' records administrator at the Iowa
2 medical and classification center the number of days so
3 served. The department of corrections' records administrator,
4 or the administrator's designee, shall apply jail credit as
5 ordered by the court of proper jurisdiction or as authorized
6 by this section and section 907.3, subsection 3, ~~and shall~~
7 ~~forward a copy of the number of days served to the clerk of~~
8 ~~the district court from which the inmate was sentenced.~~

9 2. An inmate shall not receive credit upon the inmate's
10 sentence for time spent in custody in another state resisting
11 return to Iowa following an escape. However, an inmate may
12 receive credit upon the inmate's sentence while incarcerated
13 in an institution or jail of another jurisdiction during any
14 period of time the person is receiving credit upon a sentence
15 of that other jurisdiction.

16 Sec. 3. Section 904.102, Code 2005, is amended to read as
17 follows:

18 904.102 DEPARTMENT ESTABLISHED -- INSTITUTIONS -- SECURITY
19 LEVELS.

20 The Iowa department of corrections is established to be
21 responsible for the control, treatment, and rehabilitation of
22 offenders committed under law to the following classified
23 institutions:

24 1. Iowa correctional institution for women, medium
25 security.

26 2. Anamosa state penitentiary, maximum security.

27 3. Iowa state penitentiary, maximum security.

28 4. Iowa medical and classification center, medium
29 security.

30 5. North central correctional facility at Rockwell City,
31 minimum security.

32 6. Mount Pleasant correctional facility, medium security.

33 7. Clarinda correctional facility, medium security.

34 8. Newton correctional facility, medium security.

35 9. Fort Dodge correctional facility, medium security.

1 10. Rehabilitation camps, minimum security.

2 11. Other institutions related to an institution in
3 subsections 1 through 10 but not attached to the campus of the
4 main institution as program developments require, minimum
5 security.

6 Sec. 4. Section 904.702, Code 2005, is amended to read as
7 follows:

8 904.702 DEDUCTIONS FROM INMATE ACCOUNTS.

9 1. 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, except amounts
19 directed to be deposited in the inmate telephone fund
20 established in section 904.508A, sent to the inmate from a
21 source other than the department of corrections for deposit in
22 the inmate savings fund as required under section 904.508,
23 subsection 2, until the amount in the fund equals the amount
24 due the inmate upon discharge, parole, or placement on work
25 release. The director shall deduct from the inmate account an
26 amount the inmate is legally obligated to pay for child
27 support. The director shall deduct from the inmate account an
28 amount established by the inmate's restitution plan of
29 payment. The director shall also deduct from any remaining
30 account balance an amount sufficient to pay all or part of any
31 judgment against the inmate, including but not limited to
32 judgments for taxes and child support, and court costs and
33 fees assessed either as a result of the inmate's confinement
34 or amounts required to be paid under section 610A.1. Written
35 notice of the amount of the deduction shall be given to the

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

24 2. The director, ~~the institutional division,~~ and the
25 department shall not be liable to any person for any damages
26 caused by the withdrawal or failure to withdraw money or the
27 payment or failure to make any payment under this section.

28 Sec. 5. Section 905.14, subsection 1, Code 2005, is
29 amended to read as follows:

30 1. A person placed on probation or parole and subject to
31 supervision by a district department shall be required to pay
32 an enrollment fee of ~~two-hundred-fifty~~ three hundred dollars
33 to the district department to offset the costs of supervision
34 and any sex offender programming.

35 Sec. 6. Sections 904.203, 904.204, 904.205, and 904.206,

1 Code 2005, are repealed.

2 EXPLANATION

3 This bill relates to the practices and procedures of the
4 department of corrections and the judicial district department
5 of correctional services.

6 The bill increases the criminal penalty for sexual
7 misconduct with an inmate committed by an employee,
8 contractor, vendor, volunteer, or agent of the department of
9 corrections or by an officer, employee, or agent of a judicial
10 district department of correctional services from an
11 aggravated misdemeanor to a class "D" felony.

12 The bill strikes a provision requiring the department of
13 corrections to notify the clerk of the district court of the
14 amount of jail time served and credited to a person committed
15 to the custody of the department of corrections.

16 The bill designates the security level for each of the
17 institutions under the control of the department of
18 corrections. The bill repeals Code section 904.203 through
19 Code section 904.206, which designated the security level and
20 primary use for several of the institutions under the control
21 of the department.

22 The bill requires the director of the department of
23 corrections to deduct child support payments from the account
24 of an inmate prior to deducting any restitution.

25 The bill increases the supervision fee payable by a person
26 being supervised by a judicial district department of
27 correctional services from \$250 to \$300. The bill also
28 provides that the fee should offset any sex offender
29 programming costs in addition to the supervision costs.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2750 - Corrections Omnibus (LSB 5327 HZ)

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

Fiscal Note Version - New

Description

House File 2750 relates to sexual misconduct with offenders committed to the Department of Corrections (DOC) or a Community-Based Corrections (CBC) District Department. Under current law, if an officer, employee, contractor, vendor, volunteer, or agent of the DOC or CBC District Departments commits a sex act with an offender under the supervision of the corrections system, the penalty is an aggravated misdemeanor. House File 2750 raises the penalty to a Class D felony. The Bill also increases the enrollment fee from \$250 to \$300, to offset the costs of supervision and sex offender programming. The Bill makes other statutory changes that have no correctional or fiscal impact.

Background

1. On average, there are six offenders annually convicted of the current aggravated misdemeanor offense. Of these six offenders, one is sentenced to prison. The other five offenders receive some other sentence, such as probation. The offender sentenced to prison will serve on average 10 months before being approved for parole.
2. Increasing the penalty to a Class D felony increases the length of stay in prison from 10 months to 21 months, for an increase of 110.0% in the average length of stay in prison.
3. The CBC District Departments were charging offenders fees for specialized services, such as anger management group treatment. The fees were used to offset program expenses. The State Auditor questioned the legality of fees for services. The DOC and CBC District Departments propose eliminating fees for specialized services and increasing the amount of the enrollment fee.
4. Currently, approximately 38.3% of offenders under CBC supervision pay the enrollment fee in full while 61.7% made partial payment using a payment plan. Funds generated by the enrollment fee remain in each CBC District Department's operating budget.
5. Currently, the CBC District Departments charge sex offenders for the cost of specialized services. Approximately \$243,000 was generated statewide by these fees in FY 2005.

Assumptions

1. The law will become effective July 1, 2006. A lag effect of six months is assumed for the correctional impact, from the law's effective date to the date of first entry of affected offenders into the correctional system.
2. Assuming current policies and practices remain stable, enhancing the penalty to a Class D felony will increase the incarceration rate by 50.0%.
3. Current collection rates are used to calculate the amount of funds generated by the increase in the enrollment fee.

Correctional Impact

Two additional offenders will be sentenced to prison annually under HF 2750. There will not be a significant correctional impact due to the low number of convictions and prison admissions. However, HF 2750 will increase the prison population because of the significant increase in the average length of stay in prison.

Fiscal Impact

The additional cost to the State for enhancing the penalty to a Class D felony is approximately \$26,000. The additional costs are primarily due to the increase in the number of offenders sentenced to prison plus the increase in the average length of stay in prison.

The \$50 increase in the enrollment fee is estimated to generate an additional \$548,000 annually in local income. This amount is offset by the elimination of fees for specialized services, such as specialized group treatment services. Additionally, the CBC District Departments will lose approximately \$243,000 in local income due to the statutory requirement that the \$300 supervision fee includes sex offender treatment fees.

Sources

Department of Corrections
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of the State Public Defender
Judicial Branch

/s/ Holly M. Lyons

March 21, 2006

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 Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 2750

H-8439

1 Amend House File 2750 as follows:

2 1. Page 1, by striking lines 1 through 9 and
3 inserting the following:

4 "Section 1. Section 709.16, Code 2005, is amended
5 to read as follows:

6 709.16 SEXUAL MISCONDUCT WITH OFFENDERS AND
7 JUVENILES.

8 1. An officer, employee, contractor, vendor,
9 volunteer, or agent of the department of corrections,
10 or an officer, employee, contractor, vendor,
11 volunteer, or agent of a judicial district department
12 of correctional services, who engages in a sex act
13 with an individual ~~committed to the custody of the~~
14 ~~department of corrections~~ known to be confined at a
15 correctional institution or known to reside in a
16 residential facility operated by a judicial district
17 department of correctional services commits an
18 aggravated misdemeanor.

19 2. An officer, employee, contractor, vendor,
20 volunteer, or agent of a juvenile placement facility
21 who engages in a sex act with a juvenile known to be
22 placed at such facility commits an aggravated
23 misdemeanor.

24 For purposes of this subsection, a "juvenile
25 placement facility" means any of the following:

26 a. A child foster care facility licensed under
27 section 237.4.

28 b. Institutions controlled by the department of
29 human services listed in section 218.1.

30 c. Juvenile detention and juvenile shelter care
31 homes approved under section 232.142.

32 d. Psychiatric medical institutions for children
33 licensed under chapter 135H.

34 e. Substance abuse facilities as defined in
35 section 125.2.

36 3. An officer, employee, contractor, vendor,
37 volunteer, or agent of a county who engages in a sex
38 act with a prisoner known to be incarcerated in a
39 county jail commits an aggravated misdemeanor."

40 2. Title page, line 3, by striking the words
41 "increasing the penalty for" and inserting the
42 following: "modifying the crime of".

By R. OLSON of Polk

H-8439 FILED MARCH 29, 2006

HOUSE FILE 2750

H-8315

1 Amend House File 2750 as follows:

2 1. Page 4, by striking line 34 and inserting the
3 following: "In addition to any enrollment fee, the
4 district department may require a person to pay a fee
5 to the district department to offset the costs of
6 providing sex offender treatment programming to that
7 person."

By HORBACH of Tama

H-8315 FILED MARCH 20, 2006

HOUSE FILE 2750

H-8328

1 Amend House File 2750 as follows:

2 1. Page 1, by striking lines 1 through 9.
3 2. By striking page 2, line 16, through page 3,
4 line 5.
5 3. Title page, by striking lines 3 through 6 and
6 inserting the following: "correctional services, and
7 providing for a fee."

By WISE of Lee

T. TAYLOR of Linn

H-8328 FILED MARCH 21, 2006

H-8536

1 Amend House File 2750 as follows:
 2 1. Page 1, by inserting before line 1 the
 3 following:
 4 "Section 1. Section 99F.15, subsection 1,
 5 paragraphs a and b, Code 2005, are amended to read as
 6 follows:
 7 a. Operating a gambling excursion or racetrack
 8 enclosure where wagering is used or to be used without
 9 a license issued by the commission.
 10 b. Operating a gambling excursion or racetrack
 11 enclosure where wagering is permitted other than in
 12 the manner specified by section 99F.9.
 13 Sec. _____. Section 99F.15, subsection 4, unnumbered
 14 paragraph 1, Code 2005, is amended to read as follows:
 15 A person commits a class "D" felony and, in
 16 addition, shall be barred for life from excursion
 17 gambling boats and racetrack enclosures conducting
 18 gambling games under the jurisdiction of the
 19 commission, if the person does any of the following:
 20 Sec. _____. Section 99F.15, subsection 4, paragraphs
 21 a and b, Code 2005, are amended to read as follows:
 22 a. Offers, promises, or gives anything of value or
 23 benefit to a person who is connected with an excursion
 24 gambling boat or racetrack enclosure operator
 25 including, but not limited to, an officer or employee
 26 of a licensee or holder of an occupational license
 27 pursuant to an agreement or arrangement or with the
 28 intent that the promise or thing of value or benefit
 29 will influence the actions of the person to whom the
 30 offer, promise, or gift was made in order to affect or
 31 attempt to affect the outcome of a gambling game, or
 32 to influence official action of a member of the
 33 commission.
 34 b. Solicits or knowingly accepts or receives a
 35 promise of anything of value or benefit while the
 36 person is connected with an excursion gambling boat or
 37 racetrack enclosure including, but not limited to, an
 38 officer or employee of a licensee, or holder of an
 39 occupational license, pursuant to an understanding or
 40 arrangement or with the intent that the promise or
 41 thing of value or benefit will influence the actions
 42 of the person to affect or attempt to affect the
 43 outcome of a gambling game, or to influence official
 44 action of a member of the commission."
 45 2. Title page, by striking lines 1 through 6 and
 46 inserting the following: "An Act relating to criminal
 47 penalties for violations committed by personnel and
 48 agents of the department of corrections and judicial
 49 district department of correctional services and at
 50 racetrack enclosures conducting casino games, and to

H-8536

-1-

H-8536

Page 2

1 the practices and procedures of the department of
 2 corrections and the judicial district department of
 3 correctional services, and providing for a fee."

4 3. By renumbering as necessary.

By HUSER of Polk

H-8536 FILED APRIL 12, 2006

Harboch
Rayhans
Lykam

Succeeded
SF 2750

HSB 632
PUBLIC SAFETY

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
CORRECTIONS BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the practices and procedures of the department
2 of corrections and the judicial district departments of
3 correctional services, including increasing the penalty for
4 sexual misconduct by an officer, employee, or agent of the
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S.F. _____ H.F. _____

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22 day on which the inmate is received into the institution. If
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27 charged with a nonbailable offense, the inmate shall be given
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35 court from which the inmate was sentenced and to the

1 department of corrections' records administrator at the Iowa
2 medical and classification center the number of days so
3 served. The department of corrections' records administrator,
4 or the administrator's designee, shall apply jail credit as
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6 by this section and section 907.3, subsection 3, ~~and shall~~
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10 sentence for time spent in custody in another state resisting
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19 LEVELS.

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23 subsection 2, until the amount in the fund equals the amount
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17 Justice Assistance Act of 1984, Pub. L. No. 98-473, including
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31 supervision by a district department shall be required to pay
32 an enrollment fee of ~~two-hundred-fifty~~ three hundred dollars
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34 Sec. 6. Sections 904.203, 904.204, 904.205, and 904.206,
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EXPLANATION

This bill relates to the practices and procedures of the department of corrections and the judicial district department of correctional services.

The bill increases the criminal penalty for sexual misconduct with an inmate committed by an employee, contractor, vendor, volunteer, or agent of the department of corrections or by an officer, employee, or agent of a judicial district department of correctional services from an aggravated misdemeanor to a class "D" felony.

The bill strikes a provision requiring the department of corrections to notify the clerk of the district court of the amount of jail time served and credited to a person committed to the custody of the department of corrections.

The bill designates the security level for each of the institutions under the control of the department of corrections. The bill repeals Code section 904.203 through Code section 904.206, which designated the security level and primary use for several of the institutions under the control of the department.

The bill requires the director of the department of corrections to deduct child support payments from the account of an inmate prior to deducting any restitution.

The bill increases the supervision fee payable by a person being supervised by a judicial district department of correctional services from \$250 to \$300.



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR
Iowa Results Website (www.resultsiowa.org)

DEPARTMENT OF CORRECTIONS
GARY D. MAYNARD, DIRECTOR
Website (www.doc.state.ia.us)

DATE: January 26, 2006

TO: Iowa General Assembly

FROM: Curt Smith, Legislative Liaison

RE: TLSB 5327DP 81

This is the department bill for the Iowa Department of Corrections and addresses several needed changes:

Sec. 1. Increases the penalty for sexual misconduct with offenders from aggravated misdemeanor to class "D" felony. Iowa is one of the last states to not have staff sexual misconduct with an offender classified as a felony and is being proposed as part of Prison Rape Elimination Act (PREA) funding received by Iowa.

Sec. 2. Eliminates the requirement that DOC notify Clerks of Court on the amount of jail credit applied toward the sentence of an offender. As ordered by the sentencing Court, current Code requires the DOC to apply the number of days an offender served in jail awaiting conviction as jail credit. The Code then requires the DOC to report back to the Clerk of Court the number of days credited, which is cumbersome and not necessary. The DOC complies with the initial court order and applies jail credit and this proposed change would eliminate the requirement for the DOC to report back to the Clerk of Court on jail credit that was applied.

Sec. 3. Adds the security level of each institution in the Code. Current Code language is confusing for the public because it only specifies four prisons and does not mention the other five prisons in Iowa. Nor is the stated security level accurate in every case.

Sec. 4. Changes the order of deduction from offender accounts to specify that child support obligations shall be deducted before restitution amounts. Current Code language specifies that restitution is deducted before child support and this is in conflict with federal and state law. AG's Office was consulted and supports this change.

Sec. 5. Increases the supervision fee in the community-based corrections districts from \$250 to \$300. An increase of \$50 per offender is being requested to enable the districts to offset the costs of evidence-based treatment programs being offered to offenders.

Sec. 6. Deletes out-of-date subsections specifying four prisons that, upon adoption of this measure, will be updated in Code chapter 904.102. See Sec. 3 above.

The mission of the Iowa Department of Corrections is to:
Protect the Public, the Employees, and the Offenders

(Office) 515-242-5702 . 420 Watson Powell Jr. Way . Des Moines, Iowa 50309 . (FAX) 515-281-7345