

Sec. 7. This Act, being deemed of immediate importance, takes effect from and after its publication in the Quad City Times, a newspaper published in Davenport, Iowa, and in The Onawa Sentinel, a newspaper published in Onawa, Iowa.

Approved April 28, 1983

I hereby certify that the foregoing Act, Senate File 334, was published in the Quad City Times, Davenport, Iowa on May 5, 1983 and in The Onawa Sentinel, Onawa, Iowa on May 5, 1983.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 51**  
**INCARCERATION IN CORRECTION FACILITIES**  
*S.F. 503*

**AN ACT** relating to persons who are or may be incarcerated in correctional facilities.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 247A.11 WORK RELEASE VIOLATORS – REIMBURSEMENT TO THE DIVISION OF ADULT CORRECTIONS FOR TRANSPORTATION COSTS. A work release client who escapes or participates in an act of absconding from the facility the client is assigned to shall reimburse the division of adult corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the division and shall be credited to the support account from which the billing occurred. The director of the division of adult corrections shall recommend rules pursuant to chapter 17A, subject to approval by the council of social services pursuant to section 217.3, subsection 6, to implement this section.

Sec. 2. Chapter 218, Code 1983, is amended by adding the following new section:  
NEW SECTION. CONFISCATION OF CONTRABAND CURRENCY.

1. Except as provided for by the director of the division of adult corrections by rule, it is unlawful for an inmate of one of the penal or correctional facilities under the division of adult corrections to possess United States or foreign currency in the penal or correctional facility.

2. The director of the division of adult corrections shall adopt rules as to circumstances under which the possession of currency by an inmate of a penal or correctional facility under the division, is authorized.

3. The division of adult corrections may confiscate currency unlawfully possessed in violation of this section. Money confiscated pursuant to this section shall be deposited in a special fund in the state treasury which fund shall be established by the treasurer of state. Money deposited in the fund may be drawn upon by the division of adult corrections to pay for expenses incurred in operating the division's penal and correctional facilities and programs.

Sec. 3. Section 246.18, Code 1983, is amended to read as follows:

**246.18 EMPLOYMENT OF PRISONERS INMATES—INSTITUTIONS AND PARKS PUBLIC SERVICE.** Prisoners in the penitentiary or men's reformatory inmates shall be employed only on state account in the maintenance of the state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with said the institutions, and in such industries as may be established and maintained in connection therewith with the institutions by the state director. The state director may detail prisoners, classified as trusties, from the state penitentiary or reformatory correctional institutions under the control of the state director to perform services public service for the conservation commission within the state parks and other agencies of state, county, or local government. The conservation commission shall provide proper supervision, housing and maintenance for said prisoners but the surveillance of said prisoners shall remain under employees of the state director supervision, security, transportation, and compensation of inmates used in public service projects shall be provided pursuant to agreements made by the director of the division of adult corrections and the agency of state, local, or county government for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement unless the inmate is housed and maintained in the correctional facility. All such employment, including but not limited to that provided in this section, shall have as its primary purpose, and shall provide for, inculcation or the reactivation of attitudes, skills, and habit patterns which will be conducive to prisoner inmate rehabilitation.

However, an inmate shall not be employed in a public service project if the employment of that inmate would replace a person employed by the state agency or political subdivision which employee is performing the work of the public service project at the time the inmate is being considered for employment in the project.

Sec. 4. Section 246.25, Code 1983, is amended to read as follows:

**246.25 LIMITATION ON CONTRACT.** The state director or the warden of the state penitentiary or the warden of the reformatory wardens and superintendents of the institutions shall not, nor shall any other person employed by the state, make any contract by which the labor or time of any a prisoner or inmate in such penitentiary or reformatory shall be contracted, let, farmed out, the institution is given, loaned, or sold to any person, firm, association, or corporation unless as provided by chapter 216 or section 246.18.

Sec. 5. Section 804.21, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION.** When the court is not in session, a person arrested and placed in jail may be released on the person's own recognizance with or without other conditions, by the verbal or written order of a judge or magistrate. The verbal order may be communicated by telephone. The judge or magistrate may issue such order of release only upon the request of an attorney or person believed by the judge or magistrate to be reliable.

Sec. 6. Section 805.1,\* Code 1983, as amended by 1983 Iowa Acts, Senate File 334, section 5, is amended by striking the section and inserting in lieu thereof the following:

**805.1 WHEN POLICE CITATION MAY ISSUE.**

1. Except for an offense for which an accused would not be eligible for bail under section 811.1, a peace officer having grounds to make an arrest may issue a citation in lieu of making an arrest without a warrant or, if a warrantless arrest has been made, a citation may be issued in lieu of continued custody.

2. The citation procedure for traffic and other violations designated as scheduled violations is governed by sections 805.6 through 805.15.

3. a. State and local law enforcement agencies in the state of Iowa may cooperate to formulate uniform guidelines that will provide for the maximum possible use of citations in lieu of arrest and in lieu of continued custody for offenses for which citations are authorized. These guidelines shall be submitted to the Iowa law enforcement academy council for review. The Iowa law enforcement academy council shall then submit recommendations to the general assembly no later than January 1, 1984.

\*See also ch 50, §5

b. Factors to be considered by the agencies in formulating the guidelines relating to the issuance of citations for simple misdemeanors not governed by subsection 2, shall include but shall not be limited to all of the following:

- (1) Whether a person refuses or fails to produce means for a satisfactory identification.
- (2) Whether a person refuses to sign the citation.
- (3) Whether detention appears reasonably necessary in order to halt a continuing offense or disturbance or to prevent harm to a person or persons.
- (4) Whether a person appears to be under the influence of intoxicants or drugs and no one is available to take custody of the person and be responsible for the person's safety.
- (5) Whether a person has insufficient ties to the jurisdiction to assure that the person will appear or it reasonably appears that there is a substantial likelihood that the person will refuse to appear in response to a citation.
- (6) Whether a person has previously failed to appear in response to a citation or after release on pretrial release guidelines.

c. Additional factors to be considered in the formulation of guidelines relating to the issuance of citations for other offenses for which citations are authorized shall include but shall not be limited to all of the following concerning the person:

- (1) Place and length of residence.
- (2) Family relationships.
- (3) References.
- (4) Present and past employment.
- (5) Criminal record.
- (6) Nature and circumstances of the alleged offense.
- (7) Other facts relevant to the likelihood of the person's response to a citation.

4. The issuance of a citation in lieu of arrest or in lieu of continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for the purpose of the speedy indictment requirements of R.Cr.P. section 27, subsection 2, paragraph a, Ia. Ct. Rules, 2d ed.

5. Even if a citation is issued, the officer may take the cited person to an appropriate medical facility if it reasonably appears that the person needs care.

6. When a citation is not issued for an offense for which a citation is authorized, the arrested person may be released pending initial appearance on bail or on other conditions determined by pretrial release guidelines. When an arrested person furnishes bail, the officer then in charge of the place of detention shall secure it in safekeeping and shall see that it is forwarded to the office of the clerk of court during the clerk's next regular business day.

7. When the offense is one for which a citation is not authorized, the person does not qualify for release under pretrial release guidelines and the person cannot be released under a bond schedule, the person may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure.

Sec. 7. Any reference to the "division of adult corrections" and the "department of social services" appearing in this Act shall be changed to the "department of corrections" and other corrective changes in this Act and in the Code shall be made consistent with the intent of Senate File 464 if Senate File 464 is enacted into law.

Sec. 8. Section 246.19 is repealed.

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