

Broers, Chair
Sukup
Kreiman

HSB 104

JUDICIARY

Succee

SENATE/HOUSE FILE SE 436
BY (PROPOSED ATTORNEY GENERAL
BILL)

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

A BILL FOR

1 An Act creating a new criminal offense of escape from custody by
2 a sexually violent predator civilly committed to confinement
3 and providing a penalty.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. NEW SECTION. 229A.5B ESCAPE FROM CUSTODY.

2 1. A respondent who is in custody under this chapter shall
3 remain in custody unless released by court order, or
4 discharged under section 229A.10. A respondent in custody
5 under this chapter shall not do any of the following:

6 a. Leave or attempt to leave a facility without the
7 accompaniment of authorized personnel.

8 b. Knowingly and voluntarily be absent from a place where
9 the respondent is required to be present.

10 c. Leave or attempt to leave the custody of personnel
11 transporting or guarding the respondent while the respondent
12 is away from a facility.

13 2. A respondent who violates subsection 1 commits a simple
14 misdemeanor or may be subject to punishment for contempt. If
15 the respondent pleads guilty to, or is convicted of, an
16 offense under this section, or is found in contempt, or both,
17 and is sentenced to a term of confinement, the civil
18 commitment proceedings or treatment process may be stayed by
19 court order until the term of confinement is served by the
20 respondent.

21 3. If a respondent commits a violation of subsection 1 and
22 remains unconfined, the attorney general or the chief law
23 enforcement officer of the political subdivision where the
24 violation occurs may make a public announcement that the
25 respondent is unconfined and may provide relevant information
26 about the respondent to the community. The attorney general
27 may also notify a victim or the family of a victim of the
28 respondent that the respondent is unconfined.

29 4. This section shall not be construed to prohibit the use
30 of the interstate compact on mental health as provided in
31 chapter 221.

32

EXPLANATION

33 This bill creates a new criminal offense of escape from
34 custody by a sexually violent predator civilly committed under
35 Code chapter 229A and provides a penalty.

1 The bill prohibits a person who has been placed in or
 2 committed to a facility from leaving or attempting to leave
 3 such a facility without being accompanied by authorized
 4 personnel unless the person has been released or discharged.
 5 The bill also prohibits a person from knowingly and
 6 voluntarily being absent from a place where the person should
 7 be present or leaving or attempting to leave the custody of
 8 personnel transporting or guarding the person while away from
 9 a facility.

10 The bill provides that the attorney general or the chief
 11 law enforcement officer of the jurisdiction where a violation
 12 occurs may notify the public if the person is unconfined and
 13 is at large. The attorney general may also notify the victim
 14 or the family of the victim.

15 In addition, the bill does not prevent the state from
 16 transferring a person to another state under the interstate
 17 compact on mental health under Code chapter 221.

18 A person who commits a violation of the bill commits a
 19 simple misdemeanor or may be subject to contempt. A simple
 20 misdemeanor is punishable by confinement for no more than 30
 21 days or a fine of at least \$50 but not more than \$500 or by
 22 both. Contempt before a district judge or district associate
 23 judge is punishable by a fine not to exceed \$500 or
 24 confinement not to exceed six months or both. Contempt before
 25 a judicial magistrate is punishable by a fine not to exceed
 26 \$100 or confinement not to exceed 30 days. Any civil
 27 commitment proceeding or treatment process may be stayed by
 28 court order until a term of confinement is served for
 29 committing a violation of the bill.

30
 31
 32
 33
 34
 35

Substituted for by SF 94
4-9-01
(P. 1117)

4-5-01 UNFINISHED BUSINESS CALENDAR

FEB 28 2001
Place On Calendar

HOUSE FILE 436
BY COMMITTEE ON JUDICIARY

WITHDRAWN
4-9-01

(SUCCESSOR TO HSB 104)

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

A BILL FOR

1 An Act creating a new criminal offense of escape from custody by
2 a sexually violent predator civilly committed to confinement
3 and providing a penalty.

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

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

HF 436

1 Section 1. NEW SECTION. 229A.5B ESCAPE FROM CUSTODY.

2 1. A respondent who is in custody under this chapter shall
3 remain in custody unless released by court order, or
4 discharged under section 229A.10. A respondent in custody
5 under this chapter shall not do any of the following:

6 a. Leave or attempt to leave a facility without the
7 accompaniment of authorized personnel.

8 b. Knowingly and voluntarily be absent from a place where
9 the respondent is required to be present.

10 c. Leave or attempt to leave the custody of personnel
11 transporting or guarding the respondent while the respondent
12 is away from a facility.

13 2. A respondent who violates subsection 1 commits a simple
14 misdemeanor or may be subject to punishment for contempt. If
15 the respondent pleads guilty to, or is convicted of, an
16 offense under this section, or is found in contempt, or both,
17 and is sentenced to a term of confinement, the civil
18 commitment proceedings or treatment process may be stayed by
19 court order until the term of confinement is served by the
20 respondent.

21 3. If a respondent commits a violation of subsection 1 and
22 remains unconfined, the attorney general or the chief law
23 enforcement officer of the political subdivision where the
24 violation occurs may make a public announcement that the
25 respondent is unconfined and may provide relevant information
26 about the respondent to the community. The attorney general
27 may also notify a victim or the family of a victim of the
28 respondent that the respondent is unconfined.

29 4. This section shall not be construed to prohibit the use
30 of the interstate compact on mental health as provided in
31 chapter 221.

32 EXPLANATION

33 This bill creates a new criminal offense of escape from
34 custody by a sexually violent predator civilly committed under
35 Code chapter 229A and provides a penalty.

1 The bill prohibits a person who has been placed in or
2 committed to a facility from leaving or attempting to leave
3 such a facility without being accompanied by authorized
4 personnel unless the person has been released or discharged.
5 The bill also prohibits a person from knowingly and
6 voluntarily being absent from a place where the person should
7 be present or leaving or attempting to leave the custody of
8 personnel transporting or guarding the person while away from
9 a facility.

10 The bill provides that the attorney general or the chief
11 law enforcement officer of the jurisdiction where a violation
12 occurs may notify the public if the person is unconfined and
13 is at large. The attorney general may also notify the victim
14 or the family of the victim.

15 In addition, the bill does not prevent the state from
16 transferring a person to another state under the interstate
17 compact on mental health under Code chapter 221.

18 A person who commits a violation of the bill commits a
19 simple misdemeanor or may be subject to contempt. A simple
20 misdemeanor is punishable by confinement for no more than 30
21 days or a fine of at least \$50 but not more than \$500 or by
22 both. Contempt before a district judge or district associate
23 judge is punishable by a fine not to exceed \$500 or
24 confinement not to exceed six months or both. Contempt before
25 a judicial magistrate is punishable by a fine not to exceed
26 \$100 or confinement not to exceed 30 days. Any civil
27 commitment proceeding or treatment process may be stayed by
28 court order until a term of confinement is served for
29 committing a violation of the bill.

30
31
32
33
34
35

HOUSE FILE 436
FISCAL NOTE

The estimate for **House File 436** is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 436 creates a new criminal offense of escape from custody by a sexually violent predator civilly committed under Chapter 229A, Code of Iowa. A person who commits a violation of the provisions of House File 436 commits a simple misdemeanor or may be subject to contempt.

ASSUMPTIONS

1. Currently, the civil commitment unit for sexually violent predators is at the Iowa Medical Classification Center at Oakdale. This is a secure correctional institution and escape is unlikely.
2. If the civil commitment unit is moved to another location, it will remain a secure facility.
3. There were five prison escapes during FY 2000. The civil commitment unit is much smaller than the Iowa prison population, so the likelihood of escape is very low.
4. The median cost per case for indigent defense for a simple misdemeanor offense or contempt action is \$250.
5. Court costs vary by type of offense charged as well as contested versus uncontested cases. Information concerning the ratio of contested versus uncontested cases is not available.
6. The average court cost for an uncontested simple misdemeanor case or contempt action is \$58. The average court cost for a contested simple misdemeanor case is \$371. Court costs include the expenses for the Clerk of Court, court attendant, and a District Associate Judge.
7. The marginal cost per day for county jails is \$25 per person. There is no data available with which to estimate the number of days held in jail on the simple misdemeanor offense, pending transport to the civil commitment unit. However, the person would be transferred to the Iowa Medical Classification Center at Oakdale as quickly as possible. The person would be held in jail no more than seven days.
8. Simple misdemeanor cases are rarely placed under correctional supervision.
9. There is no fiscal impact for the Office of the Attorney General.

CORRECTIONAL IMPACT

No sexually violent predator has escaped from the civil commitment unit. The risk of a civilly committed person escaping is low. Therefore, any correctional impact under House File 436 would be minimal.

FISCAL IMPACT

The fiscal impact of House File 436 is expected to be minimal. The maximum cost to the State for one simple misdemeanor case is \$600.

The counties may incur additional costs of \$175 for holding an escapee from the civil commitment unit.

The above information excludes transportation costs.

SOURCES

Supreme Court
Department of Corrections
State Public Defender's Office
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of the Attorney General

(LSB 1121HV, BAL)

FILED MARCH 22, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR