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FEB 25 2007
Place On Calendar

HOUSE FILE 2553
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2433)

Passed House, ^(P. 725) Date 3/12/02 Passed Senate, Date _____
Vote: Ayes 68 Nays 23 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to conducting searches of persons on probation or
2 parole and providing information to local law enforcement
3 agencies and the state department of transportation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2553

1 Section 1. Section 906.4, Code 2001, is amended by adding
2 the following new unnumbered paragraph after unnumbered
3 paragraph 3:

4 NEW UNNUMBERED PARAGRAPH. A person may voluntarily agree
5 to a condition of parole or work release that requires the
6 person to submit to a search of the person, the person's
7 property, place of residence, vehicle, or personal effects, at
8 any time, with or without a search warrant or probable cause,
9 by any peace officer as a condition of parole or work release
10 for the duration of parole or work release. For purposes of
11 this section, "peace officer" means those officers designated
12 under section 801.4.

13 Sec. 2. NEW SECTION. 906.5A INFORMATION PROVIDED TO
14 STATE DEPARTMENT OF TRANSPORTATION AND LAW ENFORCEMENT
15 AGENCIES.

16 The board of parole shall notify the local law enforcement
17 agency with jurisdiction over the area where a person is
18 paroled and the state department of transportation of
19 conditions of the person's release requiring the person to
20 submit to a search as provided in section 906.4 or 907.6. The
21 state department of transportation shall release such
22 information to a law enforcement agency as provided in section
23 321.11.

24 Sec. 3. Section 907.6, Code 2001, is amended to read as
25 follows:

26 907.6 CONDITIONS OF PROBATION -- REGULATIONS.

27 Probationers are subject to the conditions established by
28 the judicial district department of correctional services
29 subject to the approval of the court, and any additional
30 reasonable conditions which the court or district department
31 may impose to promote rehabilitation of the defendant or
32 protection of the community. Conditions may include but are
33 not limited to adherence to regulations generally applicable
34 to persons released on parole and including requiring unpaid
35 community service as allowed pursuant to section 907.13, or

1 being subjected to searches pursuant to section 906.4. The
2 district department assigned to supervise the probationer
3 shall notify the local law enforcement agency with
4 jurisdiction over the area where the probationer resides and
5 the state department of transportation of conditions of the
6 probationer's release requiring the probationer to submit to a
7 search as provided in this section. The state department of
8 transportation shall release such information to a law
9 enforcement agency as provided in section 321.11.

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EXPLANATION

11 This bill relates to conducting searches of persons on
12 probation or parole.

13 The bill provides that a person may voluntarily agree to a
14 condition of parole or work release that requires the person
15 be subjected to searches of the person, the person's property,
16 place of residence, vehicle, or personal effects, at any time,
17 with or without a search warrant or probable cause, by any
18 peace officer. For purposes of this bill, "peace officer"
19 means those officers designated under Code section 801.4.

20 The bill requires the board of parole or a judicial
21 district department to provide a local law enforcement agency
22 with jurisdiction over the area where the parolee or
23 probationer resides with information regarding the condition
24 of parole or probation. The bill also requires the board of
25 parole or the judicial district department to provide the
26 information to the state department of transportation. The
27 bill requires the department of transportation to release the
28 information as provided in Code section 321.11.

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HOUSE FILE 2553

H-8247

- 1 Amend House File 2553 as follows:
2 1. Page 1, by inserting before line 1 the
3 following:
4 "Section 1. Section 901.5, Code Supplement 2001,
5 is amended by adding the following new subsection:
6 NEW SUBSECTION. 14. If the court defers judgment
7 or sentence or suspends the sentence, the court may
8 order as a condition of probation that the defendant
9 be subjected to searches under the same circumstances
10 and procedures that apply to parolees under section
11 906.4."
12 2. Page 1, lines 4 and 5, by striking the words
13 "A person may voluntarily agree to" and inserting the
14 following: "The board as".
15 3. Page 1, lines 5 and 6, by striking the words
16 "that requires the person to" and inserting the
17 following: "may require a person".
18 4. Page 1, line 9, by striking the words "officer
19 as a condition of parole or work release" and
20 inserting the following: "officer".
21 5. By renumbering as necessary.

By BAUDLER of Adair

H-8247 FILED MARCH 11, 2002

adapted
3/12/02
(p. 724)

5-3/12/02 Judiciary

HOUSE FILE 2553
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2433)

(As Amended and Passed by the House March 12, 2002)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to conducting searches of persons on probation or
2 parole and providing information to local law enforcement
3 agencies and the state department of transportation.

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

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6 House Amendments _____

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1 Section 1. Section 901.5, Code Supplement 2001, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 14. If the court defers judgment or
4 sentence or suspends the sentence, the court may order as a
5 condition of probation that the defendant be subjected to
6 searches under the same circumstances and procedures that
7 apply to parolees under section 906.4.

8 Sec. 2. Section 906.4, Code 2001, is amended by adding the
9 following new unnumbered paragraph after unnumbered paragraph
10 3:

11 NEW UNNUMBERED PARAGRAPH. The board as a condition of
12 parole or work release may require a person submit to a search
13 of the person, the person's property, place of residence,
14 vehicle, or personal effects, at any time, with or without a
15 search warrant or probable cause, by any peace officer for the
16 duration of parole or work release. For purposes of this
17 section, "peace officer" means those officers designated under
18 section 801.4.

19 Sec. 3. NEW SECTION. 906.5A INFORMATION PROVIDED TO
20 STATE DEPARTMENT OF TRANSPORTATION AND LAW ENFORCEMENT
21 AGENCIES.

22 The board of parole shall notify the local law enforcement
23 agency with jurisdiction over the area where a person is
24 paroled and the state department of transportation of
25 conditions of the person's release requiring the person to
26 submit to a search as provided in section 906.4 or 907.6. The
27 state department of transportation shall release such
28 information to a law enforcement agency as provided in section
29 321.11.

30 Sec. 4. Section 907.6, Code 2001, is amended to read as
31 follows:

32 907.6 CONDITIONS OF PROBATION -- REGULATIONS.
33 Probationers are subject to the conditions established by
34 the judicial district department of correctional services
35 subject to the approval of the court, and any additional

1 reasonable conditions which the court or district department
2 may impose to promote rehabilitation of the defendant or
3 protection of the community. Conditions may include but are
4 not limited to adherence to regulations generally applicable
5 to persons released on parole and including requiring unpaid
6 community service as allowed pursuant to section 907.13, or
7 being subjected to searches pursuant to section 906.4. The
8 district department assigned to supervise the probationer
9 shall notify the local law enforcement agency with
10 jurisdiction over the area where the probationer resides and
11 the state department of transportation of conditions of the
12 probationer's release requiring the probationer to submit to a
13 search as provided in this section. The state department of
14 transportation shall release such information to a law
15 enforcement agency as provided in section 321.11.

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Legislative Fiscal Bureau

Fiscal Note

HF 2553 - Fourth Amendment Waiver (Probation) (LSB 5531 HV)
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version - New
Requested by Representative Clel Baudler

Description

House File 2553 provides that an inmate may voluntarily agree to a condition of parole or work release that requires him or her to be subject to search of the person, property, place of residence, vehicle, or personal effects at any time, with or without a search warrant or probable cause, by any peace officer as designated in Chapter 801.4, Code of Iowa. People on probation may also voluntarily agree to these searches as a condition of probation. The Bill requires the Board of Parole or the eight Community-Based Corrections (CBC) District Departments to notify local law enforcement and the Iowa Department of Transportation of this condition of parole or probation. The Department of Transportation is required to release the information as provided in Section 321.11, Code of Iowa.

Assumptions

1. The Fourth Amendment waiver provision is a voluntary condition of parole, work release, or probation. There is no readily available information with which to predict the number of offenders who will voluntarily agree to waive their Constitutional Rights regarding search and seizure.
2. There were 2,350 new parole cases, 16,961 new probation cases, and 1,244 new work release cases during FY 2000. Therefore, 20,555 offenders annually may agree to waive their Fourth Amendment rights.
3. There is no fiscal impact on the Board of Parole, Department of Transportation, or Department of Public Safety.

Correctional Impact

The correctional impact of HF 2553 cannot be determined.

Fiscal Impact

If a significant number of offenders agree to waive their Fourth Amendment rights, there will be increased workload for Community-Based Corrections (CBC) staff due to the notification requirements. The impact of HF 2553 cannot be determined since it is not known how many offenders will agree to the waiver.

Sources

Board of Parole
Department of Transportation
Department of Public Safety
Department of Corrections
Office of the State Public Defender

/s/ Dennis C Prouty

March 5, 2002

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

Legislative Fiscal Bureau

Fiscal Note

HF 2553 - Fourth Amendment Waiver (Probation and Parole) (LSB 5531 HV.1)
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version – As Passed by the House
Requested by Senator O. Gene Maddox

Description

House File 2553 as passed by the House provides that the court or Board of Parole may impose, as a condition of probation, parole, or work release, that the offender be subject to search of the person, property, place of residence, vehicle, or personal effects at any time, with or without a search warrant or probable cause, by any peace officer as designated in Chapter 801.4, Code of Iowa. The Bill requires the Board of Parole or the eight Community-Based Corrections (CBC) District Departments to notify local law enforcement and the Iowa Department of Transportation of this condition of parole or probation. The Department of Transportation is required to release the information as provided in Section 321.11, Code of Iowa.

Assumptions

1. The court and Board of Parole have discretion in imposing this condition. There is no readily available information with which to predict the number of offenders on which this new condition may be imposed.
2. There were 2,350 new parole cases, 16,961 new probation cases, and 1,244 new work release cases during FY 2000. Therefore, a maximum of 20,555 offenders annually may be subject to the imposition of this condition.
3. There is no fiscal impact on the Board of Parole, Department of Transportation, or Department of Public Safety.

Correctional Impact

The correctional impact of HF 2553 as passed by the House cannot be determined.

Fiscal Impact

If a significant number of offenders are subjected to this new condition, there will be increased workload for Community-Based Corrections (CBC) staff due to the notification requirements. The impact of HF 2553 as passed by the House cannot be determined since it is not known how many offenders will be subject to this new condition of probation, parole, or work release.

Sources

Board of Parole
Department of Transportation
Department of Public Safety
Department of Corrections
Office of the State Public Defender

/s/ Dennis C Prouty

March 14, 2002

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