

McKean  
Hammond  
Angelo

SSB-1152

Judiciary

Succeeded By

SENATE/HOUSE FILE SF/HF 346  
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 department of corrections by providing for  
2 liability of counties for the cost of confinement for sexually  
3 violent predators in a department of corrections or department  
4 of human services facility, for the use of deadly force by  
5 correctional or peace officers, for submission of presentence  
6 investigation reports to the department, for establishing a  
7 training fund in the department, for transcription and  
8 recording of testimony for certain investigations conducted by  
9 the department of corrections, for purchases by a department  
10 or agency from Iowa state industries, and for payment of costs  
11 related to confinement of certain offenders in county jails.

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

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 Section 1. NEW SECTION. 229A.12A COUNTY RESPONSIBILITY  
2 OF CONFINEMENT COSTS.

3 If a person is placed in an appropriate secure facility  
4 prior to a determination of whether the person is a sexually  
5 violent predator, and if the person was confined at a jail or  
6 correctional institution before the placement, the county in  
7 which the person was convicted or charged that resulted in the  
8 confinement at the jail or correctional institution, shall be  
9 responsible for paying the costs of confining the person until  
10 the person is released by court order or committed to the  
11 custody of the director of the department of human services  
12 under section 229A.7. If a person is placed in an appropriate  
13 secure facility prior to being determined a sexually violent  
14 predator, and the person is not confined, or confined but not  
15 confined in a county jail or correctional institution, the  
16 responsibility for paying the costs of confining the person in  
17 the facility shall be determined in the same manner as  
18 provided in section 230.1. The amount to be reimbursed to the  
19 department shall be determined by multiplying the number of  
20 days a person is confined by the average daily cost of food,  
21 clothing, utilities, and supplies for confining a person in  
22 the appropriate secure facility as negotiated with the  
23 department. The amount to be reimbursed shall not exceed  
24 twenty-five dollars per day. In addition, the department may  
25 be reimbursed for personnel costs if the department hires  
26 additional personnel above the average annual staffing  
27 required to operate the facility.

28 Sec. 2. Section 704.8, Code 2001, is amended to read as  
29 follows:

30 704.8 ESCAPE FROM PLACE OF CONFINEMENT.

31 A correctional officer or peace officer is justified in  
32 using reasonable force, including deadly force, which is  
33 necessary to prevent the escape of any person from any jail,  
34 penal institution, correctional facility, or similar place of  
35 confinement, or place of trial or other judicial proceeding,

1 or to prevent the escape from custody of any person who is  
 2 being transported from any such place of confinement, trial or  
 3 judicial proceeding to any other such place, except that  
 4 deadly force ~~may~~ shall not be used to prevent the escape of  
 5 one who the correctional officer or peace officer knows ~~or~~  
 6 ~~should-know~~ is confined on a charge or conviction of any class  
 7 of misdemeanor.

8 Sec. 3. Section 904.202, Code 2001, is amended to read as  
 9 follows:

10 904.202 INTAKE AND CLASSIFICATION CENTER.

11 The director may provide facilities and personnel for a  
 12 diagnostic intake and classification center. The work of the  
 13 center shall include a scientific study of each inmate, the  
 14 inmate's career and life history, the causes of the inmate's  
 15 criminal acts and recommendations for the inmate's custody,  
 16 care, training, employment, and counseling with a view to  
 17 rehabilitation and to the protection of society. To  
 18 facilitate the work of the center and to aid in the  
 19 rehabilitation of the inmates, the trial judge, prosecuting  
 20 attorney, and presentence investigators shall furnish the  
 21 director upon-request with any previously authorized  
 22 presentence investigation report and a full statement of facts  
 23 and circumstances attending the commission of the offense so  
 24 far as known or believed by them. If the department develops  
 25 and utilizes an inmate classification system, it must, within  
 26 a reasonable time, present evidence from independent experts  
 27 as to the effectiveness and validity of the classification  
 28 system.

29 Sec. 4. NEW SECTION. 904.303A TRAINING FUND.

30 A training fund is established under the control of the  
 31 department. The director shall provide training to all new  
 32 officers or employees of the department free of charge. The  
 33 department shall also offer in-service training which shall  
 34 include classes for officers and employees in the areas of  
 35 safety, first aid, emergency preparedness, and any other

1 appropriate class determined by the director. Employees of a  
2 judicial district may also attend any in-service training  
3 offered by the department. The department may recover from  
4 the correctional institution or judicial district, the actual  
5 costs of planning and conducting the training classes, if an  
6 employee of the institution or judicial district attends an  
7 in-service training class. The costs that may be recovered by  
8 the department include the costs of course development,  
9 training materials, equipment and facility rental,  
10 instruction, and administration. Moneys received as  
11 reimbursement of the costs shall be deposited in the training  
12 fund for use in conducting future training classes. All cost  
13 reimbursement moneys, grants, or appropriations related to  
14 training shall be deposited in the fund. Notwithstanding  
15 section 8.33, moneys remaining in the training fund at the end  
16 of a fiscal year shall not revert to the general fund of the  
17 state. Notwithstanding section 12C.7, interest and earnings  
18 deposited in the training fund shall be credited to the  
19 training fund.

20 Sec. 5. Section 904.405, Code 2001, is amended to read as  
21 follows:

22 904.405 TRANSCRIPT OF TESTIMONY.

23 The director shall cause the testimony taken at the  
24 investigation to be transcribed and recorded. The recording  
25 of the testimony shall not be transcribed unless the testimony  
26 is part of a case that is appealed or an interested party  
27 requests a transcript and pays the cost of preparing the  
28 transcript. The recording of the testimony, or the  
29 transcription thereof, shall be filed and maintained in the  
30 director's office at the seat of government within ten days  
31 after the testimony is taken, or as soon as practicable, and  
32 when filed the testimony shall be open for the inspection of  
33 any person for at least five years from the date the testimony  
34 is taken or the date of a final decision in a case involving  
35 the testimony, whichever is later.

1 Sec. 6. Section 904.513, subsection 2, Code 2001, is  
2 amended to read as follows:

3 2. Upon request by the director a county shall provide  
4 temporary confinement for offenders allegedly violating the  
5 conditions of assignment to a program under this chapter, if  
6 space is available in the county. The department shall  
7 negotiate a reimbursement rate with each county. The amount  
8 to be reimbursed shall be determined by multiplying the number  
9 of days a person is confined by the average daily cost of  
10 food, clothing, utilities, and supplies for confining a person  
11 in the county facility as negotiated with the department. The  
12 amount to be reimbursed shall not exceed twenty-five dollars  
13 per day. In addition, the county may be reimbursed for  
14 personnel costs if the county hires additional personnel above  
15 the average annual staffing required to operate the jail. A  
16 county holding offenders in jail due to insufficient space in  
17 a community residential facility shall be reimbursed. Payment  
18 shall be made upon submission of a voucher executed by the  
19 sheriff and approved by the director.

20 Sec. 7. Section 904.808, subsection 1, paragraph b, Code  
21 2001, is amended to read as follows:

22 b. When the state director releases, in writing, the  
23 obligation of the department or agency to purchase the product  
24 from Iowa state industries, after determining that Iowa state  
25 industries is unable to meet the performance characteristics  
26 of the purchase request for the product, and a copy of the  
27 release is attached to the request to the director of revenue  
28 and finance for payment for a similar product, or when Iowa  
29 state industries is unable to furnish needed products,  
30 comparable in both quality and price to those available from  
31 alternative sources, within a reasonable length of time.  
32 However, if requested by Iowa state industries, a department  
33 or agency shall provide a listing of and specifications for  
34 all products to be purchased during the next quarter including  
35 the date the order must be completed and delivered. Iowa

1 state industries must have a minimum of forty-five days to  
2 complete and deliver any order for which a listing of and  
3 specifications for products is requested from the department  
4 or agency. Any disputes arising between a purchasing  
5 department or agency and Iowa state industries regarding  
6 similarity of products, or comparability of quality or price,  
7 or the availability of the product, shall be referred to the  
8 director of the department of general services, whose decision  
9 shall be subject to appeal as provided in section 18.7.

10 However, if the purchasing department is the department of  
11 general services, any matter which would be referred to the  
12 director under this paragraph shall be referred to the  
13 executive council in the same manner as if the matter were to  
14 be heard by the director of the department of general  
15 services. The decision of the executive council is final.

16 Sec. 8. Section 904.908, subsection 2, Code 2001, is  
17 amended to read as follows:

18 2. The Iowa department of corrections shall negotiate a  
19 reimbursement rate with each county for the temporary  
20 confinement of alleged violators of work release conditions  
21 who are in the custody of the director of the Iowa department  
22 of corrections or who are housed or supervised by the judicial  
23 district department of correctional services. The amount to  
24 be reimbursed shall be determined by multiplying the number of  
25 days a person is confined by the average daily cost of food,  
26 clothing, utilities, and supplies for confining a person in  
27 the county facility as negotiated with the department. The  
28 amount to be reimbursed shall not exceed twenty-five dollars  
29 per day. In addition, the county may be reimbursed for  
30 personnel costs if the county hires additional personnel above  
31 the average annual staffing required to operate the jail.  
32 Payment shall be made upon submission of a voucher executed by  
33 the sheriff and approved by the director of the Iowa  
34 department of corrections.

35 Sec. 9. Section 906.17, subsection 2, Code 2001, is

1 amended to read as follows:

2 2. The Iowa department of corrections shall reimburse a  
3 county for the temporary confinement of alleged parole  
4 violators. The amount to be reimbursed shall be determined by  
5 multiplying the number of days confined by the average daily  
6 cost of food, clothing, utilities, and supplies for confining  
7 a person in the county facility as negotiated by the  
8 department. The amount to be reimbursed shall not exceed  
9 twenty-five dollars per day. In addition, the county may be  
10 reimbursed for personnel costs if the county hires additional  
11 personnel above the average annual staffing required to  
12 operate the jail. Payment shall be made upon submission of a  
13 voucher executed by the sheriff and approved by the director  
14 of the Iowa department of corrections.

15 EXPLANATION

16 This bill makes several changes to statutory provisions  
17 involving the department of corrections.

18 The bill provides that if a person is placed in an  
19 appropriate secure facility prior to being determined a  
20 sexually violent predator, and if the person was confined at a  
21 jail or correctional institution before the placement, the  
22 county in which the person was convicted or charged, that  
23 resulted in the confinement at the jail or correctional  
24 institution, shall be responsible for paying the costs of  
25 confining the person until released by court order or  
26 committed to the custody of the director of the department of  
27 human services under Code section 229A.7. The bill provides  
28 that if a person is placed in a secure facility prior to being  
29 determined a sexually violent predator, and the person is not  
30 confined, or confined but not confined in a county jail or  
31 correctional institution, the responsibility for paying the  
32 costs of confining the person shall be as provided in Code  
33 section 230.1. The bill provides that the department may be  
34 reimbursed by the county at a maximum rate of \$25 per day for  
35 each person confined in the facility. The bill also provides

1 that the department may be reimbursed from the counties for  
2 additional personnel costs related to confining each person,  
3 if the department hires additional personnel that are above  
4 the annual staffing needs for operating the appropriate secure  
5 facility.

6 The bill amends Code section 704.8 to provide that a  
7 correctional or peace officer may use reasonable force,  
8 including deadly force, against an inmate attempting to escape  
9 unless the officer knows the inmate is confined due to a  
10 misdemeanor charge or conviction. Under existing law, the  
11 officer is prohibited from using deadly force to prevent an  
12 escape of an inmate if the officer knows or should know the  
13 inmate is confined due to a misdemeanor charge or conviction.

14 Code section 904.202 is amended to require that trial  
15 judges, prosecuting attorneys, and presentence investigators  
16 provide the director of the department of corrections with any  
17 previously authorized presentence investigation on any inmate  
18 sent to the Oakdale intake and classification center of the  
19 department of corrections.

20 The bill establishes a training fund in Code section  
21 904.303A. The bill provides that the department of  
22 corrections shall provide training to new officers and  
23 employees of the department free of charge. The bill also  
24 requires the department to offer in-service training to  
25 employees, including employees of a judicial district, in the  
26 areas of safety, first aid, emergency preparedness, and any  
27 other appropriate course determined by the director. The bill  
28 provides that if an employee of a correctional institution or  
29 a judicial district attends an in-service class, the  
30 department may recover the actual and administrative costs of  
31 planning and conducting the class from the institution or  
32 judicial district. The bill provides that any moneys  
33 remaining in the fund at the end of the fiscal year shall not  
34 revert to the general fund.

35 Code section 904.405, governing the transcription of

1 testimony for certain investigations conducted by the  
 2 department of corrections, is amended to allow the testimony  
 3 to be recorded and not transcribed. If the case involving the  
 4 testimony is appealed, or an interested person so requests and  
 5 pays the cost, the recording will be transcribed. The  
 6 recording, or transcription if applicable, will remain on file  
 7 for at least five years following the date of the testimony or  
 8 the date of a final decision in a case involving the  
 9 testimony, whichever is later.

10 The bill amends Code section 904.808 relating to  
 11 departmental and agency purchasing from Iowa state industries.  
 12 The bill provides that Iowa state industries may request from  
 13 a department or an agency, a listing of and specifications for  
 14 all products to be purchased during the next quarter,  
 15 including the date the order must be completed and delivered.  
 16 The bill further provides that if Iowa state industries  
 17 requests a complete listing of products prior to the next  
 18 business quarter, then Iowa state industries has a minimum of  
 19 45 days to complete and deliver such an order.

20 Code sections 904.513, 904.908, and 906.17, relating to the  
 21 reimbursement rate for confinement of state prisoners at  
 22 county jails, are amended. The bill provides that the county  
 23 may be reimbursed by the state at a maximum rate of \$25 per  
 24 day for each state prisoner confined at a county jail for  
 25 violations by OWI offenders, parolees, and persons on work  
 26 release. Under current law, the department of corrections  
 27 negotiates the reimbursement rate with each county. The bill  
 28 also provides that a county may be reimbursed by the state for  
 29 additional personnel costs related to confining state  
 30 prisoners, if the county hires additional personnel that are  
 31 above the average annual staffing needs for operating the  
 32 jail.

33  
 34  
 35

H. 3/28/01 Judiciary  
H. 4/9/01 Amend/Do Pass w/ H 1461  
H. 4/12/01 UNFINISHED BUSINESS CALENDAR

FILED MAR 5 '01

SENATE FILE 346 5/1/01 Motion to R/C by Johnson  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1152)

Passed Senate, Date <sup>(P. 868)</sup> 3-27-01  
Vote: Ayes 47 Nays 1

Passed House, Date <sup>(P. 1220)</sup> 4-17-01  
Vote: Ayes 96 Nays 2

Approved 5/16/01

(P. 1437) Re Passed 5-1-01  
Vote 43-5

Re Passed 5-3-01  
Vote 95-1

A BILL FOR

1 An Act relating to the department of corrections by providing for  
2 the use of deadly force by correctional or peace officers, for  
3 submission of presentence investigation reports to the  
4 department, for establishing a training fund in the  
5 department, for transcription and recording of testimony for  
6 certain investigations conducted by the department of  
7 corrections, and for purchases by a department or agency from  
8 Iowa state industries.

SF 346

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

10 Senate Conf. Comm.  
11 <sup>(P. 1267)</sup> 4-24-01  
12  
13 McKean ch.  
14 Angelo  
15 Hammond  
16 Halvick  
17 King

House Conf. Committee  
4-23-01  
Boudler  
Larson  
Eichhorn  
Kreimon  
Stammell

19  
20  
21  
22  
23  
24

1 Section 1. Section 704.8, Code 2001, is amended to read as  
2 follows:

3 704.8 ESCAPE FROM PLACE OF CONFINEMENT.

4 A correctional officer or peace officer is justified in  
5 using reasonable force, including deadly force, which is  
6 necessary to prevent the escape of any person from any jail,  
7 penal institution, correctional facility, or similar place of  
8 confinement, or place of trial or other judicial proceeding,  
9 or to prevent the escape from custody of any person who is  
10 being transported from any such place of confinement, trial or  
11 judicial proceeding to any other such place, except that  
12 deadly force ~~may~~ shall not be used to prevent the escape of  
13 one who the correctional officer or peace officer knows ~~or~~  
14 ~~should-know~~ is confined on a charge or conviction of any class  
15 of misdemeanor.

16 Sec. 2. Section 904.202, Code 2001, is amended to read as  
17 follows:

18 904.202 INTAKE AND CLASSIFICATION CENTER.

19 The director may provide facilities and personnel for a  
20 diagnostic intake and classification center. The work of the  
21 center shall include a scientific study of each inmate, the  
22 inmate's career and life history, the causes of the inmate's  
23 criminal acts and recommendations for the inmate's custody,  
24 care, training, employment, and counseling with a view to  
25 rehabilitation and to the protection of society. To  
26 facilitate the work of the center and to aid in the  
27 rehabilitation of the inmates, the trial judge, prosecuting  
28 attorney, and presentence investigators shall furnish the  
29 director ~~upon-request~~ with any previously authorized  
30 presentence investigation report and a full statement of facts  
31 and circumstances attending the commission of the offense so  
32 far as known or believed by them. If the department develops  
33 and utilizes an inmate classification system, it must, within  
34 a reasonable time, present evidence from independent experts  
35 as to the effectiveness and validity of the classification

1 system.

2 Sec. 3. NEW SECTION. 904.303A TRAINING FUND.

3 A training fund is established under the control of the  
4 department. The director shall provide training to all new  
5 officers or employees of the department free of charge. The  
6 department shall also offer in-service training which shall  
7 include classes for officers and employees in the areas of  
8 safety, first aid, emergency preparedness, and any other  
9 appropriate class determined by the director. Employees of a  
10 judicial district may also attend any in-service training  
11 offered by the department. The department may recover from  
12 the correctional institution or judicial district, the actual  
13 costs of planning and conducting the training classes, if an  
14 employee of the institution or judicial district attends an  
15 in-service training class. The costs that may be recovered by  
16 the department include the costs of course development,  
17 training materials, equipment and facility rental,  
18 instruction, and administration. Moneys received as  
19 reimbursement of the costs shall be deposited in the training  
20 fund for use in conducting future training classes. All cost  
21 reimbursement moneys, grants, or appropriations related to  
22 training shall be deposited in the fund. Notwithstanding  
23 section 8.33, moneys remaining in the training fund at the end  
24 of a fiscal year shall not revert to the general fund of the  
25 state. Notwithstanding section 12C.7, interest and earnings  
26 deposited in the training fund shall be credited to the  
27 training fund.

28 Sec. 4. Section 904.405, Code 2001, is amended to read as  
29 follows:

30 904.405 TRANSCRIPT OF TESTIMONY.

31 The director shall cause the testimony taken at the  
32 investigation to be ~~transcribed and~~ recorded. The recording  
33 of the testimony shall not be transcribed unless the testimony  
34 is part of a case that is appealed or an interested party  
35 requests a transcript and pays the cost of preparing the

1 transcript. The recording of the testimony, or the  
2 transcription thereof, shall be filed and maintained in the  
3 director's office at the seat of government within-ten-days  
4 after-the-testimony-is-taken, or-as-soon-as-practicable, and  
5 when-filed-the-testimony-shall-be-open-for-the-inspection-of  
6 any-person for at least five years from the date the testimony  
7 is taken or the date of a final decision in a case involving  
8 the testimony, whichever is later.

9 Sec. 5. Section 904.808, subsection 1, paragraph b, Code  
10 2001, is amended to read as follows:

11 b. When the state director releases, in writing, the  
12 obligation of the department or agency to purchase the product  
13 from Iowa state industries, after determining that Iowa state  
14 industries is unable to meet the performance characteristics  
15 of the purchase request for the product, and a copy of the  
16 release is attached to the request to the director of revenue  
17 and finance for payment for a similar product, or when Iowa  
18 state industries is unable to furnish needed products,  
19 comparable in both quality and price to those available from  
20 alternative sources, within a reasonable length of time.  
21 However, if requested by Iowa state industries, a department  
22 or agency shall provide a listing of and specifications for  
23 all products to be purchased during the next quarter including  
24 the date the order must be completed and delivered. Iowa  
25 state industries must have a minimum of forty-five days to  
26 complete and deliver any order for which a listing of and  
27 specifications for products is requested from the department  
28 or agency. Any disputes arising between a purchasing  
29 department or agency and Iowa state industries regarding  
30 similarity of products, or comparability of quality or price,  
31 or the availability of the product, shall be referred to the  
32 director of the department of general services, whose decision  
33 shall be subject to appeal as provided in section 18.7.  
34 However, if the purchasing department is the department of  
35 general services, any matter which would be referred to the

1 director under this paragraph shall be referred to the  
2 executive council in the same manner as if the matter were to  
3 be heard by the director of the department of general  
4 services. The decision of the executive council is final.

5 EXPLANATION

6 This bill makes several changes to statutory provisions  
7 involving the department of corrections.

8 The bill amends Code section 704.8 to provide that a  
9 correctional or peace officer may use reasonable force,  
10 including deadly force, against an inmate attempting to escape  
11 unless the officer knows the inmate is confined due to a  
12 misdemeanor charge or conviction. Under existing law, the  
13 officer is prohibited from using deadly force to prevent an  
14 escape of an inmate if the officer knows or should know the  
15 inmate is confined due to a misdemeanor charge or conviction.

16 Code section 904.202 is amended to require that trial  
17 judges, prosecuting attorneys, and presentence investigators  
18 provide the director of the department of corrections with any  
19 previously authorized presentence investigation on any inmate  
20 sent to the Oakdale intake and classification center of the  
21 department of corrections.

22 The bill establishes a training fund in Code section  
23 904.303A. The bill provides that the department of  
24 corrections shall provide training to new officers and  
25 employees of the department free of charge. The bill also  
26 requires the department to offer in-service training to  
27 employees, including employees of a judicial district, in the  
28 areas of safety, first aid, emergency preparedness, and any  
29 other appropriate course determined by the director. The bill  
30 provides that if an employee of a correctional institution or  
31 a judicial district attends an in-service class, the  
32 department may recover the actual and administrative costs of  
33 planning and conducting the class from the institution or  
34 judicial district. The bill provides that any moneys  
35 remaining in the fund at the end of the fiscal year shall not

1 revert to the general fund.  
2 Code section 904.405, governing the transcription of  
3 testimony for certain investigations conducted by the  
4 department of corrections, is amended to allow the testimony  
5 to be recorded and not transcribed. If the case involving the  
6 testimony is appealed, or an interested person so requests and  
7 pays the cost, the recording will be transcribed. The  
8 recording, or transcription if applicable, will remain on file  
9 for at least five years following the date of the testimony or  
10 the date of a final decision in a case involving the  
11 testimony, whichever is later.

12 The bill amends Code section 904.808 relating to  
13 departmental and agency purchasing from Iowa state industries.  
14 The bill provides that Iowa state industries may request from  
15 a department or an agency, a listing of and specifications for  
16 all products to be purchased during the next quarter,  
17 including the date the order must be completed and delivered.  
18 The bill further provides that if Iowa state industries  
19 requests a complete listing of products prior to the next  
20 business quarter, then Iowa state industries has a minimum of  
21 45 days to complete and deliver such an order.

22

23 \_\_\_\_\_

**SENATE FILE 346**

**H-1365**

1 Amend Senate File 346, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 12, by striking the words "~~may~~  
4 shall" and inserting the following: "may".

**By** BAUDLER of Adair

**H-1365** FILED MARCH 28, 2001

*o/o 4-17-01  
P.1219*

31  
32  
33  
34  
35

**SENATE FILE 346****H-1461**

1 Amend Senate File 346, as passed by the Senate, as  
2 follows:

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

5 "Section 1. Section 232.68, subsection 2, Code  
6 2001, is amended by adding the following new  
7 paragraph:

8 NEW PARAGRAPH. g. The commission of bestiality in  
9 the presence of a minor under section 717C.1 by a  
10 person who resides in a home with a child, as a result  
11 of the acts or omissions of a person responsible for  
12 the care of the child."

13 2. Page 1, line 12, by striking the words "~~may~~  
14 shall" and inserting the following: "may".

15 3. Page 1, by inserting after line 15, the  
16 following:

17 "Sec. \_\_\_\_ . NEW SECTION. 717C.1 BESTIALITY.

18 1. For purposes of this section:

19 a. "Animal" means any nonhuman vertebrate, either  
20 dead or alive.

21 b. "Sex act" means any sexual contact between a  
22 person and an animal by penetration of the penis into  
23 the vagina or anus, contact between the mouth and  
24 genitalia, or by contact between the genitalia of one  
25 and the genitalia or anus of the other.

26 2. A person who performs a sex act with an animal,  
27 is guilty of an aggravated misdemeanor.

28 3. Upon a conviction for a violation of this  
29 section, and in addition to any sentence authorized by  
30 law, the court shall require the person to submit to a  
31 psychological evaluation and treatment at the person's  
32 expense."

33 4. Page 2, by inserting after line 27 the  
34 following:

35 "Sec. \_\_\_\_ . Section 904.310, Code 2001, is amended  
36 to read as follows:

37 904.310 CANTEENS.

38 The director may maintain a canteen at an  
39 institution under the director's jurisdiction for the  
40 sale to persons confined in the institution of items  
41 such as toilet articles, candy, tobacco products,  
42 notions, and other sundries, and may provide the  
43 necessary facilities, equipment, personnel, and  
44 merchandise for the canteen. The director shall  
45 specify the items to be sold in the canteen. The  
46 department may establish and maintain a permanent  
47 operating fund for each canteen. The fund shall  
48 consist of the receipts from the sale of commodities  
49 at the canteen and donations designated by inmates for  
50 reimbursement of victims' travel expenses. Any money

**H-1461**

**H-1461**

Page 2

1 in the fund over the amount needed to do normal  
 2 business transactions, ~~and~~ to reimburse any accounts  
 3 which have subsidized the canteen fund, and to  
 4 reimburse victims' travel expenses, shall be  
 5 considered profit. This money may remain in the  
 6 canteen fund and be used for any purchase which the  
 7 superintendent approves that will directly and  
 8 collectively benefit the inmates of the institution or  
 9 to reimburse victims' travel expenses."

10 5. Page 3, line 8, by inserting after the word  
 11 "later." the following: "However, a recording of  
 12 testimony involving any employee of the department  
 13 shall continue to be filed and maintained until the  
 14 employee no longer is employed by the department."

15 6. By striking page 3, line 9, through page 4,  
 16 line 4.

17 7. Title page, line 2, by inserting after the  
 18 word "officers," the following: "for the creation of  
 19 a new criminal offense with a correctional impact,".

20 8. By renumbering as necessary.

By COMMITTEE ON JUDICIARY  
 LARSON of Linn, Chairperson

**H-1461** FILED APRIL 9, 2001

*Adopted*  
 4-17-01  
 (P. 1219)

**SENATE FILE 346**

**S-3269**

1 Amend Senate **File 346** as follows:

2 1. Page 1, lines 13 and 14, by striking the words  
 3 "~~or should know~~" and inserting the following: "or  
 4 reasonably should know".

By JACK HOLVECK  
 JOHNIE HAMMOND

**S-3269** FILED MARCH 27, 2001

LOST (P. 868)

CCS-346

Page 3

department."

6. By striking page 3, line 9, through page 4, line 4.
7. Title page, line 2, by inserting after the word "officers," the following: "for the creation of a new criminal offense with a correctional impact,".
8. Title page, line 5, by inserting after the word "department," the following: "for inmate donations for victims' travel expenses, and".
9. Title page, by striking lines 7 and 8, and inserting the following: "corrections."
10. By renumbering as necessary.

**ON THE PART OF THE SENATE:**

ANDY MCKEAN, Chairperson  
JEFF ANGELO  
STEVE KING

**ON THE PART OF THE HOUSE:**

CLEL BAUDLER, Chairperson  
GEORGE EICHHORN  
KEITH KREIMAN  
CHUCK LARSON  
MARK TREMMEL

CCS-346 FILED APRIL 27, 2001

*Adopted*  
*5/1/01*

*Adapted*  
*3/3/01 (p. 1809)*

**SENATE FILE 346  
FISCAL NOTE**

---

A fiscal note for **Amendment H-1461 to Senate File 346** is hereby submitted 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.

---

Amendment H-1461 to SF 346 permits deadly force to be used to prevent the escape of a misdemeanant from prison. The Amendment also permits the canteen fund at each prison to be used for the deposit of inmate donations. The donations are to offset travel costs of victims who attend victim impact sessions at the prisons. Amendment H-1461 to SF 346 requires recording of employee testimony to be filed and maintained by the Department of Corrections until the employee is no longer employed by the Department. The Amendment also strikes the purchasing language for Iowa Prison Industries from SF 346. Amendment H-1461 to SF 346 also creates a new crime, bestiality, which is punishable as an aggravated misdemeanor. The definition of "child abuse" is amended to include the commission of bestiality in the presence of a minor by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

**ASSUMPTIONS**

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2001. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information.
5. There are no data with which to project the correctional or fiscal impact for the crime of bestiality, since it is new. However, the proposed legislation is similar to Section 709.18, Code of Iowa, sex with a corpse. Since the enactment of that provision in 1996, there have been no charges or convictions under Section 709.18, Code of Iowa, as reported by the Clerks of the District Court.
6. The median cost per case for indigent defense is \$1,000 for an aggravated misdemeanor.
7. 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 unavailable.
8. The average court cost for an uncontested aggravated misdemeanor case is \$271 while the average court cost for a contested aggravated misdemeanor case is approximately \$2,900. These costs include expenses for the Clerk of Court, court attendant, court reporter, judges (District Associate Judges or District Court Judges), and juries.

-2-

9. The marginal cost per day for State prisons is \$16 per inmate. The average length of stay in prison for an aggravated misdemeanor is 9.5 months. The marginal cost per day for probation and parole is \$1.55 per offender. The average length of stay on community supervision is 19 months for an aggravated misdemeanor.
10. The marginal cost per offender in a county jail is \$25 per day.

**CORRECTIONAL IMPACT**

It is anticipated that Amendment H-1461 to SF 346 will have minimal correctional impact.

**FISCAL IMPACT**

It is expected that the provisions relating to bestiality in Amendment H-1461 to SF 346 will have minimal fiscal impact. The State's cost for one aggravated misdemeanor conviction ranges from approximately \$7,000 to \$9,000, depending on whether or not the case is contested or uncontested. The other provisions of Amendment H-1461 to SF 346 have no fiscal impact.

The impact on local jails is expected to be minimal.

**SOURCES**

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

(LSB 1131sv, BAL)

FILED APRIL 11, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE AMENDMENT TO  
SENATE FILE 346**

**S-3376**

1 Amend Senate File 346, as passed by the Senate, as  
2 follows:

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

5 "Section 1. Section 232.68, subsection 2, Code  
6 2001, is amended by adding the following new  
7 paragraph:

8 NEW PARAGRAPH. g. The commission of bestiality in  
9 the presence of a minor under section 717C.1 by a  
10 person who resides in a home with a child, as a result  
11 of the acts or omissions of a person responsible for  
12 the care of the child."

13 2. Page 1, line 12, by striking the words "~~may~~  
14 shall" and inserting the following: "may".

15 3. Page 1, by inserting after line 15, the  
16 following:

17 "Sec. \_\_\_\_ . NEW SECTION. 717C.1 BESTIALITY.

18 1. For purposes of this section:

19 a. "Animal" means any nonhuman vertebrate, either  
20 dead or alive.

21 b. "Sex act" means any sexual contact between a  
22 person and an animal by penetration of the penis into  
23 the vagina or anus, contact between the mouth and  
24 genitalia, or by contact between the genitalia of one  
25 and the genitalia or anus of the other.

26 2. A person who performs a sex act with an animal,  
27 is guilty of an aggravated misdemeanor.

28 3. Upon a conviction for a violation of this  
29 section, and in addition to any sentence authorized by  
30 law, the court shall require the person to submit to a  
31 psychological evaluation and treatment at the person's  
32 expense."

33 4. Page 2, by inserting after line 27 the  
34 following:

35 "Sec. \_\_\_\_ . Section 904.310, Code 2001, is amended  
36 to read as follows:

37 904.310 CANTEENS.

38 The director may maintain a canteen at an  
39 institution under the director's jurisdiction for the  
40 sale to persons confined in the institution of items  
41 such as toilet articles, candy, tobacco products,  
42 notions, and other sundries, and may provide the  
43 necessary facilities, equipment, personnel, and  
44 merchandise for the canteen. The director shall  
45 specify the items to be sold in the canteen. The  
46 department may establish and maintain a permanent  
47 operating fund for each canteen. The fund shall  
48 consist of the receipts from the sale of commodities  
49 at the canteen and donations designated by inmates for  
50 reimbursement of victims' travel expenses. Any money

**S-3376**

**S-3376**

Page 2

1 in the fund over the amount needed to do normal  
2 business transactions, ~~and~~ to reimburse any accounts  
3 which have subsidized the canteen fund, and to  
4 reimburse victims' travel expenses, shall be  
5 considered profit. This money may remain in the  
6 canteen fund and be used for any purchase which the  
7 superintendent approves that will directly and  
8 collectively benefit the inmates of the institution or  
9 to reimburse victims' travel expenses."

10 5. Page 3, line 8, by inserting after the word  
11 "later." the following: "However, a recording of  
12 testimony involving any employee of the department  
13 shall continue to be filed and maintained until the  
14 employee no longer is employed by the department."

15 6. By striking page 3, line 9, through page 4,  
16 line 4.

17 7. Title page, line 2, by inserting after the  
18 word "officers," the following: "for the creation of  
19 a new criminal offense with a correctional impact,".

20 8. By renumbering as necessary.

RECEIVED FROM THE HOUSE

**S-3376** FILED APRIL 17, 2001

*Senate Refused*  
*4-18-01*  
*(p. 1188)*

*House Insisted*  
*4-23-01*  
*(p. 1407)*

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 346

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and House of Representatives on Senate File 346, a bill for an Act relating to the department of corrections by providing for the use of deadly force by correctional or peace officers, for submission of presentence investigation reports to the department, for establishing a training fund in the department, for transcription and recording of testimony for certain investigations conducted by the department of corrections, and for purchases by a department or agency from Iowa state industries, respectfully make the following report:

1. That the House recedes from its amendment, S-3376.

2. That Senate File 346, as passed by the Senate, is amended to read as follows:

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

"Section 1. Section 232.68, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child."

2. Page 1, line 12, by striking the words "~~may shall~~" and inserting the following: "may".

3. Page 1, by inserting after line 15, the following:

"Sec. \_\_\_\_ . NEW SECTION. 717C.1 BESTIALITY.

1. For purposes of this section:

a. "Animal" means any nonhuman vertebrate, either dead or alive.

b. "Sex act" means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus,

CCS-346

Page 2

contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.

2. A person who performs a sex act with an animal, is guilty of an aggravated misdemeanor.

3. Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person's expense."

4. Page 2, by inserting after line 27, the following:

"Sec. \_\_\_\_ . Section 904.310, Code 2001, is amended to read as follows:

904.310 CANTEENS.

The director may maintain a canteen at an institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen and donations designated by inmates for reimbursement of victims' travel expenses. Any money in the fund over the amount needed to do normal business transactions, ~~and~~ to reimburse any accounts which have subsidized the canteen fund, and to reimburse victims' travel expenses, shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly and collectively benefit the inmates of the institution or to reimburse victims' travel expenses."

5. Page 3, line 8, by inserting after the word "later." the following: "However, a recording of testimony involving any employee of the department shall continue to be filed and maintained until the employee no longer is employed by the

SENATE FILE 346

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTIONS BY PROVIDING FOR THE USE OF DEADLY FORCE BY CORRECTIONAL OR PEACE OFFICERS, FOR THE CREATION OF A NEW CRIMINAL OFFENSE WITH A CORRECTIONAL IMPACT, FOR SUBMISSION OF PRESENTENCE INVESTIGATION REPORTS TO THE DEPARTMENT, FOR ESTABLISHING A TRAINING FUND IN THE DEPARTMENT, FOR INMATE DONATIONS FOR VICTIMS' TRAVEL EXPENSES, AND FOR TRANSCRIPTION AND RECORDING OF TESTIMONY FOR CERTAIN INVESTIGATIONS CONDUCTED BY THE DEPARTMENT OF CORRECTIONS.

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

Section 1. Section 232.68, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

Sec. 2. Section 704.8, Code 2001, is amended to read as follows:

704.8 ESCAPE FROM PLACE OF CONFINEMENT.

A correctional officer or peace officer is justified in using reasonable force, including deadly force, which is necessary to prevent the escape of any person from any jail, penal institution, correctional facility, or similar place of confinement, or place of trial or other judicial proceeding, or to prevent the escape from custody of any person who is being transported from any such place of confinement, trial or

judicial proceeding to any other such place, except that deadly force may not be used to prevent the escape of one who the correctional officer or peace officer knows or should-know is confined on a charge or conviction of any class of misdemeanor.

Sec. 3. NEW SECTION. 717C.1 BESTIALITY.

1. For purposes of this section:

- a. "Animal" means any nonhuman vertebrate, either dead or alive.
- b. "Sex act" means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.

2. A person who performs a sex act with an animal, is guilty of an aggravated misdemeanor.

3. Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person's expense.

Sec. 4. Section 904.202, Code 2001, is amended to read as follows:

904.202 INTAKE AND CLASSIFICATION CENTER.

The director may provide facilities and personnel for a diagnostic intake and classification center. The work of the center shall include a scientific study of each inmate, the inmate's career and life history, the causes of the inmate's criminal acts and recommendations for the inmate's custody, care, training, employment, and counseling with a view to rehabilitation and to the protection of society. To facilitate the work of the center and to aid in the rehabilitation of the inmates, the trial judge, prosecuting attorney, and presentence investigators shall furnish the director upon request with any previously authorized presentence investigation report and a full statement of facts and circumstances attending the commission of the offense so

far as known or believed by them. If the department develops and utilizes an inmate classification system, it must, within a reasonable time, present evidence from independent experts as to the effectiveness and validity of the classification system.

Sec. 5. NEW SECTION. 904.303A TRAINING FUND.

A training fund is established under the control of the department. The director shall provide training to all new officers or employees of the department free of charge. The department shall also offer in-service training which shall include classes for officers and employees in the areas of safety, first aid, emergency preparedness, and any other appropriate class determined by the director. Employees of a judicial district may also attend any in-service training offered by the department. The department may recover from the correctional institution or judicial district, the actual costs of planning and conducting the training classes, if an employee of the institution or judicial district attends an in-service training class. The costs that may be recovered by the department include the costs of course development, training materials, equipment and facility rental, instruction, and administration. Moneys received as reimbursement of the costs shall be deposited in the training fund for use in conducting future training classes. All cost reimbursement moneys, grants, or appropriations related to training shall be deposited in the fund. Notwithstanding section 8.33, moneys remaining in the training fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, interest and earnings deposited in the training fund shall be credited to the training fund.

Sec. 6. Section 904.310, Code 2001, is amended to read as follows:

904.310 CANTEENS.

The director may maintain a canteen at an institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen and donations designated by inmates for reimbursement of victims' travel expenses. Any money in the fund over the amount needed to do normal business transactions, and to reimburse any accounts which have subsidized the canteen fund, and to reimburse victims' travel expenses, shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly and collectively benefit the inmates of the institution or to reimburse victims' travel expenses.

Sec. 7. Section 904.405, Code 2001, is amended to read as follows:

904.405 TRANSCRIPT OF TESTIMONY.

The director shall cause the testimony taken at the investigation to be transcribed and recorded. The recording of the testimony shall not be transcribed unless the testimony is part of a case that is appealed or an interested party requests a transcript and pays the cost of preparing the transcript. The recording of the testimony, or the transcription thereof, shall be filed and maintained in the director's office at the seat of government within ten days after the testimony is taken, or as soon as practicable, and when filed the testimony shall be open for the inspection of any person for at least five years from the date the testimony is taken or the date of a final decision in a case involving the testimony, whichever is later. However, a recording of

testimony involving any employee of the department shall continue to be filed and maintained until the employee no longer is employed by the department.

---

MARY E. KRAMER  
President of the Senate

---

BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 346, Seventy-ninth General Assembly.

---

MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 5/16, 2001

---

THOMAS J. VILSACK  
Governor