

FEB 2 2 2006  
WAYS AND MEANS

HOUSE FILE 2494  
BY COMMITTEE ON PUBLIC SAFETY

(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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HC 2494

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 Sec. 6. Sections 904.203, 904.204, 904.205, and 904.206,  
35 Code 2005, are repealed.

## EXPLANATION

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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.

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 2494 - Corrections Omnibus (LSB 5327 HV)

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

Fiscal Note Version - New

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**Description**

House File 2494 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 2494 raises the penalty to a Class D felony. The Bill also increases the enrollment fee from \$250 to \$300. 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 sex offender 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.

**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 2494. There will not be a significant correctional impact due to the low number of convictions and prison admissions. However, HF 2494 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. This amount is offset by the elimination of fees for specialized services.

**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

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March 1, 2006

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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.

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Harbach  
Rayhans  
Lykam

HSB 632

PUBLIC SAFETY

SENATE/HOUSE FILE ST 02494  
BY (PROPOSED DEPARTMENT OF  
CORRECTIONS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

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TLSB 5327DP 81

jm/gg/14

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

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# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR  
Iowa Results Website ([www.resultsiowa.org](http://www.resultsiowa.org))

DEPARTMENT OF CORRECTIONS  
GARY D. MAYNARD, DIRECTOR  
Website ([www.doc.state.ia.us](http://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**