

JOINT INTERIM SUBCOMMITTEE ON CORRECTIONS
OF THE
SENATE COMMITTEE ON JUDICIARY,
THE HOUSE COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT,
THE SENATE AND HOUSE COMMITTEES ON HUMAN RESOURCES
AND THE
HOUSE AND SENATE SOCIAL SERVICES APPROPRIATION SUBCOMMITTEES

Submitted to the General Assembly
January, 1981

F I N A L R E P O R T

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January, 1981

The Legislative Council approved the creation of the Joint Interim Subcommittee on Corrections which is composed of ten members. The members are from the Senate Committee on Judiciary, the House Committee on Judiciary and Law Enforcement, the Senate and House Committees on Human Resources and the Senate and House Social Services Budget Appropriation Subcommittees.

The members of the Subcommittee are:

Senator Lucas DeKoster, Co-chairperson
Representative Horace Daggett, Co-chairperson
Senator Gary Baugher
Senator Robert Carr
Senator Julia Gentleman
Senator Alvin Miller
Representative B. J. Clark
Representative Thomas Jochum
Representative Andy McKean
Representative Clay Spear

At the Joint Subcommittee's first meeting held on August 22, 1980, the Subcommittee received the presentations of:

1. Former Chief Justice C. Edwin Moore concerning post-conviction relief proceedings.
2. Mr. William Angrick and Mr. Ray Cornell from the Citizens' Aide Office concerning an update on the problems in the corrections area and corresponding legislative recommendations.
3. Mr. Donald Olson, Executive Director of the Parole Board and members of the Board concerning the responsibilities of the Board and specific legislative recommendations.
4. Several representatives of the Iowa Corrections Association concerning the areas of corrections they perceived as problems and corresponding legislative recommendations.
5. Mr. Michael V. Reagen, Commissioner of the Department of Social Services, Mr. Hal Farrier, Mr. George Keiser, Mr. Cal Auger, of the Division of Corrections and Mr. Chuck Palmer of the

Division of Mental Health Resources, of the Department of Social Services, concerning major concerns of the Division of Corrections including fiscal problems, the personnel and pay classification study, unitization, correctional staff training programs, and the farming operations at the institutions.

At the second meeting held on September 26, 1980 testimony was received from the following persons:

1. Mr. Tom Kramer of the American Federation of State, Municipal and County Employees concerning employee work conditions within the state prison system.

2. Daryl Fischer of the Statistical Analysis Center of the Office for Planning and Programming concerning a prisoner risk assessment program conducted by the Center.

3. Parole Board members Mr. Walter Sauer and Mr. Jack Bedell concerning the Citizens' Aide legislative proposals which related to parole and the Parole Board.

4. Mr. Ray Cornell, Prison Ombudsman, concerning the Citizens' Aide legislative proposals.

5. Representatives of the Iowa Corrections Association concerning the Association's legislative proposals.

The Subcommittee also discussed possible legislation at this meeting.

The third and fourth Subcommittee meetings were held November 12 and 13, 1980. At those meetings, the Subcommittee deliberated over proposed bill drafts, made legislative recommendations, and analyzed the reports to the court from the court appointed expert witnesses in the federal litigation concerning the conditions at the state penitentiary. At the November 13 meeting the Subcommittee also received testimony from Mr. Ray Wilson of the Merit Department concerning the progress of the correctional employee pay plan and from Chris Ill of the Department of Social Services, concerning the efforts in minority recruitment for the Department.

The Subcommittee's fifth and final meeting was held on December 17, 1980. At that meeting the Subcommittee received testimony from the following persons:

1. Mr. Bruce McDonald of the Attorney General's Office concerning an update on the status of the penitentiary litigation.

2. Mary Brosnahan, Legislative Liason for the Department of Social Services concerning an update on the status of the Division of Correction's legislative proposals.

3. Mr. Harold Farrier, Director of the Division of Corrections, concerning the Department's implementation of last year's Corrections Subcommittee's proposals.

4. Mr. Michael Reagen, Commissioner of the Department of Social Services, Mr. Harold Farrier of the Division of Corrections and Mr. Chuck Palmer of the Division of Mental Health, concerning an update on the overcrowding of Iowa's prison facilities.

5. Mr. Norman L. Pawlewski, Commissioner of Public Health, concerning the Health Department's inspection of correctional facilities.

6. Mr. Davis of the state Fire Marshal's office, concerning heat and fire detectors at the penitentiary and fire safety inspections at the penitentiary.

At its last meeting the Subcommittee also discussed possible Subcommittee final recommendations and proposed bill drafts.

As a result of the testimony given and Subcommittee deliberation the Subcommittee has recommended a number of proposed bill drafts which are attached to this report. The following is a listing of those drafts:

1. A draft concerning the Board of Parole review of certain offenders.

2. A draft to replace the computation of good and honor time of inmates with a good time computation.

3. A draft to clarify the procedure to be used in challenging good and honor time computations.

4. A draft concerning the inmate employment program.

5. A draft to establish a procedure other than the tort claims procedure in the settlement of inmate personal property claims.

6. A draft concerning the confidentiality of prison riot control plans.

7. A draft concerning pre-trial and post-trial criminal procedures.

8. A draft concerning the providing of rehabilitative services and treatment to mentally retarded inmates.

9. A draft concerning the administration of judicial district departments of correctional services.

10. A draft concerning the inspection of state juvenile and correctional facilities by the Department of Agriculture.

As a result of testimony given and Subcommittee deliberation, the Subcommittee has made two recommendations that do not require bill drafts. They are:

1. With the information now available, the Subcommittee feels that the best option for the present time in meeting the

overcrowded conditions in the state's adult penal institutions is to increase the correctional capacity at the Mount Pleasant Correctional and Mental Health Institute by using the mental health facilities as a correctional portion of the grounds and using the correctional portion as the mental health facility. The Subcommittee also believes that the Department of Social Services should keep under consideration the alternative of expanding the security medical facility at Oakdale as an option to the overcrowded conditions.

2. Because of the volume of alleged problems at the penitentiary which the Subcommittee and the Division of Corrections considered, the Subcommittee believes it is in the best interest of the state that another Joint Senate and House Corrections Subcommittee be appointed next interim to follow up those alleged problems and considerations.

As a result of the Subcommittee's analysis of the reports to the court from the court appointed expert witnesses in the federal litigation concerning the conditions at the state penitentiary, the Subcommittee made some findings and conclusions. They are:

1. Special education should be offered inmates who need it.
2. Tool control at the penitentiary should be improved.
3. Briefing of correctional officers at shift changes (as recommended by the report to the court) has resumed at the estimated cost of \$150,000 a year (in extra overtime pay).
4. The finding in the report to the court that inmates were used in the inmate orientation program was incorrect. Inmates should not be used however, without proper supervision.
5. The report of the penologist indicated that correctional officers at the penitentiary used abusive language in addressing inmates. The officers have been instructed not to do so.
6. Flammable covers on the cell doors at the penitentiary have been removed.
7. The Department of Social Services should investigate smoke venting devices for the cell houses.
8. Because of the potential for generating toxic fumes, black neoprene mattresses and urethane pillows or mattresses should not be used.
9. All electrical wiring, switches, fixtures, and equipment should meet accepted standards.
10. It is the Subcommittee's understanding that double locking of cells with state-owned locks, has been discontinued.
11. Additional exits will be provided in cell houses as they are remodeled in the unitization program.

12. Fire hose and fire extinguishers should be kept in operating condition. (The sanitarian reported the fire hose in the laundry had deteriorated and the fire extinguisher there was empty.)

13. Having the theater doors locked and the keys not immediately available, is a fire hazard that should be eliminated. It is the Subcommittee's understanding that this has been done.

14. The sanitarian's report was very critical of conditions in the kitchen and food storage areas. The food service operation should meet sanitation standards. The Department of Agriculture has been requested to inspect the sanitary conditions at the state penitentiary.

15. The sanitarian reports unsanitary conditions in the barber shop, such as a common whisk, no sanitizing solution or sanitizing equipment. These conditions should be corrected.

16. Because of the possible contamination of the drinking water, the plumbing "cross-connections" should be eliminated. The instances of a submerged water inlet (drain in kitchen yard and x-ray developing tank) should be promptly corrected. The flushometer toilets without vacuum breakers should have vacuum breakers installed as soon as practicable.

17. The cells in cell house 17 do not have hot water. It would be advisable to have hot water piped to all cell lavatories.

18. Cell illumination is reported to be inadequate. Lighting should meet standards. The penologist's report states that 20 foot candles are required for general illumination. The sanitarian's report states that 30 foot candles are required for reading printed material.

19. If a mattress cannot be cleaned and sanitized, it should not be reissued to another prisoner unless it has been covered by a mattress cover such as staph check #20.

The Subcommittee discussed the topic of cell size at the penitentiary but makes no recommendation at this time. However, the Subcommittee is opposed to "double bunking" or placing two inmates in a single cell in the penitentiary's cell houses.

The minutes of the Joint Subcommittee meetings, written testimony presented to the Joint Subcommittee, and other supportive materials are on file at the Legislative Service Bureau.

PROPOSED HOUSE/SENATE FILE _____

BY (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

A BILL FOR

1An Act relating to the annual inspection of the state adult
2 penal and correctional facilities and the state juvenile
3 facilities.

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

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1 Section 1. Section 135.11, subsection 5, Code 1981, is
2 amended to read as follows:

3 5. Make inspections of the sanitary conditions in the
4 educational, charitable, correctional, and penal institutions
5 in the state. However, the department of agriculture shall
6 make inspections for sanitation of the areas where food is
7 prepared or served in the adult penal and correctional
8 facilities and the juvenile facilities as provided in section
9 2 of this Act.

10 Sec. 2. Section 159.5, Code 1981, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. Annually inspect for sanitation the areas
13 where food is prepared and where food is served, including
14 but not limited to the utensils, machinery, and other
15 equipment, in the adult penal or correctional facilities
16 operated by the department of social services and in the Iowa
17 training school for boys, the Iowa training school for girls,
18 and the Iowa juvenile home. For purposes of this subsection,
19 community-based correctional facilities shall be considered
20 operated by the department of social services.

21 The department shall prepare a report on the inspections
22 and shall send a copy of the report concerning the adult penal
23 or correctional facilities to the director of the division
24 of corrections of the department of social services. A copy
25 of the report concerning the Iowa training school for boys,
26 the Iowa training school for girls, and the Iowa juvenile
27 home shall be sent to the director of the division of child
28 and family services of the department of social services.

29 EXPLANATION

30 This bill mandates the Iowa department of agriculture to
31 annually inspect the food preparation and service areas of
32 the adult penal and correctional facilities operated by the
33 department of social services and the Iowa training school
34 for boys, the Iowa training school for girls, and the Iowa
35 juvenile home. A report of the inspections shall be sent

1 to the director of the division of corrections or the director
2 of the division of child and family services of the department
3 of social services concerning the respective facilities.
4 This bill is effective July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act to authorize the director of the division of adult
2 corrections of the department of social services to
3 implement an inmate employment program.

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

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1 Section 1. Section 216.1, unnumbered paragraph 1, Code
2 1981, is amended to read as follows:

3 It is the intent of this chapter that there be made
4 available ~~with~~ to inmates of the state correctional
5 institutions opportunities for employment of inmates in
6 meaningful jobs with the following objectives:

7 Sec. 2. Section 216.2, subsection 2, Code 1981, is amended
8 to read as follows:

9 2. "Iowa state industries" means prison industries that
10 are established and maintained by the division of adult
11 corrections, in consultation with the industries board, at
12 or adjacent to the state's adult correctional institutions,
13 except that an inmate employment program established by the
14 state director under section 216.5, subsection 7 is not
15 restricted to industries at or adjacent to the institutions.

16 Sec. 3. Section 216.5, Code 1981, is amended to read as
17 follows:

18 216.5 DUTIES OF STATE DIRECTOR. The state director, with
19 the advice of the industries board, shall:

20 1. Conduct market studies and consult with public bodies
21 and officers who are listed in section 216.7, and with other
22 potential purchasers, for the purpose of determining items
23 or services needed and design features desired or required
24 by potential purchasers of Iowa state industries products
25 or services.

26 2. Receive, investigate and take appropriate action upon
27 any complaints from potential purchasers of Iowa state
28 industries products or services regarding lack of co-operation
29 by Iowa state industries with public bodies and officers who
30 are listed in section 216.7, and with other potential
31 purchasers.

32 3. Establish, transfer and close industrial operations
33 ~~at state correctional institutions,~~ as deemed advisable to
34 maximize opportunities for gainful employment of inmates and
35 to adjust to actual or potential market demand for particular

1 products or services.

2 4. Establish and from time to time adjust, as necessary,
3 levels of pay for inmates employed by Iowa state industries.

4 5. Co-ordinate Iowa state industries, and other
5 opportunities for gainful employment available to inmates
6 of adult correctional institutions, with vocational and
7 technical training opportunities and apprenticeship programs,
8 to the greatest extent feasible.

9 6. Promote, plan, and when deemed advisable, assist in
10 the location of privately owned and operated industrial
11 enterprises on the grounds of adult correctional institutions,
12 pursuant to section 216.10.

13 7. Implement an inmate employment program to employ
14 trustworthy inmates of state correctional institutions, under
15 proper supervision, whether at employment centers located
16 outside the state correctional institutions or in construction
17 or maintenance work at public or charitable facilities, which
18 shall meet the following conditions:

19 a. Inmates applying to participate in a program shall
20 be approved by the work release committee designated pursuant
21 to section 247A.3 and shall reside at state correctional
22 institutions.

23 b. The state director shall encourage the making of
24 agreements with departments and agencies of the state or its
25 political subdivisions to provide products or services under
26 a program to the departments and agencies.

27 c. The state director shall promulgate rules concerning
28 access to and distribution of products and services provided
29 under a program.

30 d. The state director shall promulgate rules establishing
31 criteria for the screening of inmates applying to participate
32 in a program to assure that each participant:

33 (1) Develops the positive attitudes, good work habits,
34 and marketable skills as those objectives are established
35 in section 216.1, subsection 1.

PROPOSED SENATE/HOUSE FILE _____

By (PROPOSED COMMITTEE ON THE
JUDICIARY OR COMMITTEE ON
JUDICIARY AND LAW ENFORCEMENT
BILL BY THE CORRECTIONS SYSTEMS
JOINT SUBCOMMITTEE)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to the administration of judicial district
2 departments of correctional services.

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

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1 Section 1. Section 905.1, subsection 1, Code 1981, is
2 amended to read as follows:

3 1. "Administrative agent" means the county selected by
4 the district board to perform accounting, budgeting, personnel,
5 facilities management, insurance, payroll and other supportive
6 services on the behalf of the district board, or the district
7 department itself, if so designated by the district board.

8 Sec. 2. Section 905.4, subsection 3, Code 1981, is amended
9 to read as follows:

10 3. Designate one of the counties in the judicial district
11 to serve as the district department's administrative agent
12 and to provide, in that capacity, all accounting, personnel,
13 facilities management and supportive services needed by the
14 district department, on such terms as ~~may be~~ mutually agreeable
15 in regard to advancement of funds to the county for the added
16 expense it incurs as a result of being so designated. However,
17 the district board may designate the district department
18 itself as the district department's administrative agent,
19 if the district board determines that it would be more
20 efficient and less costly than designating a county as the
21 administrative agent.

22 Sec. 3. Section 905.5, Code 1981, is amended to read as
23 follows:

24 905.5 FUNCTIONS OF COUNTIES-DESIGNATED ADMINISTRATIVE
25 AGENTS.

26 1. The county designated under section 905.4, subsection
27 3 as administrative agent for each district department, or
28 the district department itself, if designated as administrative
29 agent by the district board, shall submit that district
30 department's budget and supporting information to the state
31 department of social services in accordance with the provisions
32 of chapter 8. The state department shall incorporate the
33 budgets of each of the district departments into its own
34 budget request, to be processed as prescribed by the uniform
35 budget, accounting and administrative procedures established

1 by the state comptroller. Funds appropriated pursuant to
2 the budget requests of the respective district departments
3 shall be allocated on a quarterly basis, and the state
4 comptroller shall authorize advancement of the funds so
5 allocated to each district department's administrative agent,
6 or to the district department itself if the district department
7 acts as administrative agent, at the beginning of each fiscal
8 quarter.

9 2. For all administrative purposes, ~~other-than-negotiations~~
10 ~~regarding-the-terms-and-conditions-of-employment;~~ all employees
11 of each district department shall be considered employees
12 of the ~~county-designated-by-the-district-board-as-the~~
13 ~~administrative-agent-for-that~~ district department.

14 3. The A county designated as the administrative agent
15 shall perform only those administrative functions assigned
16 to it by the district board and shall not perform any activity
17 unless especially directed to do so by the district board.

18 Sec. 4. Section 905.6, subsection 4, Code 1981, is amended
19 to read as follows:

20 4. ~~Assign-the-county-serving-as-administrative-agent-for~~
21 ~~the-district-departments-to-prepare~~ Prepare all budgets and
22 fiscal documents, and certify for payment all expenses and
23 payrolls lawfully incurred by the district department.

24 EXPLANATION

25 This bill provides that the judicial district department
26 of correctional services may serve as its own administrative
27 agent if the district board of directors so provides after
28 determining it would be more efficient and less costly than
29 designating a county of the district to serve as the
30 administrative agent of the district.

31 Section 3 also provides that employees of the district
32 department shall be considered employees of that department
33 for all administrative purposes rather than employees of the
34 county which may provide administrative services.

35 Section 4 makes it a duty of the director of the district

1 department to prepare budgets and fiscal documents for the
2 district department.

3 The bill takes effect July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEM JOINT
SUBCOMMITTEE)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act requiring the director of the division of adult correc-
2 tions to provide available habilitative services and
3 treatment to imprisoned mentally retarded offenders.

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

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1 Section 1. Section 217.14, subsection 3, Code 1981, is
2 amended to read as follows:

3 3. Establishment and maintenance of acceptable standards
4 of treatment, training, education and rehabilitation in the
5 various state penal and corrective institutions which, to
6 the extent that resources are available, shall include
7 habilitative services and treatment for mentally retarded
8 offenders. For the purposes of this subsection habilitative
9 services and treatment means medical, mental health, social,
10 vocational, educational, counseling, and other services which
11 will assist a mentally retarded person to become self-reliant.
12 A person is considered mentally retarded if the person is
13 diagnosed as mentally retarded, as defined in section 222.2,
14 subsection 5, by a qualified mental retardation professional.
15 However, the director may also provide habilitative treatment
16 and services to other persons who require the services.

17 EXPLANATION

18 Although the Code presently requires the director of the
19 division of adult corrections in the department of social
20 services to provide treatment and services in the state correc-
21 tional institutions, this bill requires available habilitative
22 services and treatment to be provided for mentally retarded
23 offenders. Mentally retarded is defined and the types of
24 required treatment and services are listed.

25 This bill would take effect July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

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

A BILL FOR

1 An Act relating to pre-trial and post-trial criminal procedures.

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

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1 Section 1. Section 336B.2, Code 1981, is amended to read
2 as follows:

3 336B.2 FINANCIAL STATEMENT. Before an attorney is
4 appointed under the provisions of sections 68.8, 222.22,
5 chapter 232, section 908.2, or rule 8, rules of criminal
6 procedure, or to represent any person charged with a crime
7 in this state, the court shall require the client, or his
8 or her parent, guardian, or custodian to complete under oath
9 a detailed financial statement.

10 Sec. 2. Section 811.2, subsection 1, unnumbered paragraph
11 1, Code 1981, is amended to read as follows:

12 All bailable defendants shall be ordered released from
13 custody pending judgment on their personal recognizance, or
14 upon the execution of an unsecured appearance bond in an
15 amount specified by the magistrate unless the magistrate
16 determines in the exercise of his or her discretion, that
17 such a release will not reasonably assure the appearance of
18 the defendant as required or the defendant poses a substantial
19 threat to the safety of the community. When such determination
20 is made the magistrate shall, either in lieu of or in addition
21 to the above methods of release, impose the first of the
22 following conditions of release which will reasonably assure
23 the appearance of the person for trial and the safety of the
24 community, or, if no single condition gives that assurance,
25 any combination of the following conditions:

26 Sec. 3. Section 811.2, subsection 2, Code 1981, is amended
27 to read as follows:

28 2. DETERMINATION OF CONDITIONS. In determining which
29 conditions of release will reasonably assure the defendant's
30 appearance and the safety of the community, the magistrate
31 shall, on the basis of available information including the
32 pretrial report, take into account the nature and circumstances
33 of the offence charged, the defendant's family ties,
34 employment, financial resources, character and mental
35 condition, the length of his-or-her the defendant's residence

1 in the community, the defendant's record of convictions, and
2 the defendant's record of appearance at court proceedings
3 or of flight to avoid prosecution or failure to appear at
4 court proceedings.

5 Sec. 4. Section 901.2, Code 1981, is amended by adding
6 the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. The purpose of the report by
8 the judicial district department of correctional services
9 is to provide the court pertinent information for purposes
10 of sentencing and to include suggestions for correctional
11 planning for use by correctional authorities subsequent to
12 sentencing.

13 Sec. 5. Section 901.4, Code 1981, is amended to read as
14 follows:

15 901.4 PRESENTENCE PRE-SENTENCE INVESTIGATION REPORT
16 CONFIDENTIAL. The pre-sentence investigation report is
17 confidential and the court shall provide safeguards to insure
18 its confidentiality, including but not limited to sealing
19 the report, which may be opened only by further court order.
20 The court may, in its discretion, shall make the presentence
21 pre-sentence investigation report ex-parte-of-it available
22 to the defendant defendant's attorney, ex-the-court and may
23 make the report or parts of it available while-concealing
24 to the defendant, but may conceal the identity of the person
25 who provided confidential information. The report of any
26 medical examination or psychological or psychiatric evaluation
27 shall be made available to the attorney for the state and
28 to the defendant upon request. Such reports shall be part
29 of the record but shall be sealed and opened only on order
30 of the court. In-any-case-where If the defendant is committed
31 to the custody of the division of adult corrections and is
32 not a class "A" felon, a copy of the-presentence any pre-
33 sentence investigation report shall be sent forwarded to the
34 director with the order of commitment by the clerk of the
35 district court and to the board of parole at the time of

1 commitment. Upon request, a copy of the presentence
2 investigation report shall be made available to the citizens'
3 aide.

4 Sec. 6. Section 901.6, Code 1981, is amended to read as
5 follows:

6 901.6 JUDGMENT ENTERED. If judgment is not deferred,
7 and no sufficient cause is shown why judgment should not be
8 pronounced and none appears to the court upon the record,
9 judgment shall be pronounced and entered. In every case in
10 which judgment is entered, the court shall include in the
11 judgment entry the number of the particular section of the
12 Code and the name of the offense under which the defendant
13 is sentenced and a statement of the days credited pursuant
14 to section 246.38 shall be incorporated into the sentence.

15 Sec. 7. Section 902.4, Code 1981, is amended to read as
16 follows:

17 902.4 RECONSIDERATION OF FELON'S SENTENCE. For a period
18 of ninety days from the date when a person convicted of a
19 felony, other than a class "A" felony or a felony for which
20 a minimum sentence of confinement is imposed, begins to serve
21 a sentence of confinement, the court, on its own motion or
22 on the recommendation of the commissioner of social services,
23 may order the person to be returned to the court, at which
24 time the court may review its previous action and reaffirm
25 it or substitute for it any sentence permitted by law. The
26 court's final order in any-such the proceeding shall be
27 delivered to the defendant personally or by certified mail
28 and a certified copy shall be sent by the clerk of court to
29 the institution from which the defendant is on temporary
30 release. Such action is discretionary with the court, and
31 its decision to take such the action or not ~~to take such~~
32 action is not subject to appeal. ~~The provisions of this~~ This
33 section notwithstanding, for the purposes of appeal, a judgment
34 of conviction of a felony is a final judgment when pronounced.

35 Sec. 8. Section 903.2, Code 1981, is amended to read as

1 follows:

2 903.2 RECONSIDERATION OF MISDEMEANANT'S SENTENCE. For
3 a period of thirty days from the date when a person convicted
4 of a misdemeanor begins to serve a sentence of confinement,
5 the court may order the person to be returned to the court,
6 at which time the court may review its previous action and
7 reaffirm it or substitute for it any sentence permitted by
8 law. The court's final order in ~~any such~~ the proceeding shall
9 be delivered to the defendant personally or by certified mail
10 and a certified copy shall be sent by the clerk of court to
11 the institution from which the defendant is on temporary
12 release. Such action is discretionary with the court and
13 its decision to take such ~~the~~ action or not ~~to take such~~
14 ~~action~~ is not subject to appeal. ~~The provisions of this~~ This
15 section notwithstanding, for the purposes of appeal a judgment
16 of conviction is a final judgment when pronounced.

17 Sec. 9. Section 903.3, Code 1981, is amended to read as
18 follows:

19 903.3 WORK RELEASE. The court may direct that a prisoner
20 sentenced to confinement ~~for ninety days or less, or a prisoner~~
21 ~~who has served all but ninety days or less of his or her~~
22 ~~sentence,~~ in a county jail, alternate jail facility, or a
23 community correctional residential treatment facility, be
24 released from custody during specified hours, as provided
25 by sections 356.26 to 356.35.

26 Sec. 10. Section 906.5, unnumbered paragraph 2, Code 1981,
27 is amended to read as follows:

28 If the person who is under consideration for parole is
29 serving a sentence for conviction of a felony and has a
30 criminal record of one or more prior convictions for a forcible
31 felony or a crime of a similar gravity in this or any other
32 state, parole shall be denied unless the defendant has served
33 at least one-half of the maximum term of his or her sentence.
34 At the time of sentencing of a person convicted of a felony,
35 the trial court shall determine upon proof beyond a reasonable

1 doubt whether the convicted person has a criminal record of
2 one or more prior convictions for a forcible felony or a crime
3 of similar gravity in this or any other state. The prosecuting
4 attorney shall allege such prior convictions, as provided
5 in rule 6 of the Iowa rules of criminal procedure. A certified
6 copy of a prior judgment creates a presumption of a prior
7 conviction.

8 Sec. 11. Section 907.3, subsection 2, Code 1981, is amended
9 to read as follows:

10 2. By record entry at the time of or after sentencing,
11 the court may suspend the sentence and place the defendant
12 on probation upon such terms and conditions as it may ~~require~~
13 requires including commitment to a county jail or county jail
14 work release program or commitment to an alternate jail
15 facility or a community correctional residential treatment
16 facility for a specific number of days to be followed by a
17 term of probation as specified in section 907.7 chapter 356A.
18 A person so committed who has probation revoked shall be given
19 credit for such time served.

20 Sec. 12. Section 907.6, Code 1981, is amended to read
21 as follows:

22 907.6 CONDITIONS OF PROBATION--REGULATIONS. ~~The court,~~
23 ~~in ordering probation, may impose any reasonable rules and~~
24 ~~conditions which will~~ Probationers are subject to the
25 conditions established by the judicial district department
26 of correctional services subject to the approval of the court,
27 and any additional reasonable conditions which the court may
28 impose to promote rehabilitation of the defendant and or
29 protection of the community, including adherence to regulations
30 generally applicable to persons released on parole.

31 Sec. 13. Section 908.2, unnumbered paragraph 1, Code 1981,
32 is amended to read as follows:

33 An officer making an arrest of an alleged parole violator
34 shall take the arrested person before a magistrate without
35 unnecessary delay for an initial appearance. At that time

1 the alleged parole violator shall be furnished with a written
 2 notice of the claimed violation, shall be advised of his or
 3 her right to appointed counsel under rule 26 of the rules
 4 of criminal procedure, and shall be asked if he or she desires
 5 legal counsel. If the alleged parole violator desires legal
 6 counsel but is unable by reason of indigency to employ any,
 7 the magistrate shall appoint defense counsel pursuant to
 8 chapter 336. The alleged violator shall also be given notice
 9 that a hearing will take place and that its purpose is to
 10 determine whether there is probable cause to believe that
 11 ~~he-or-she~~ the alleged violator has committed a parole
 12 violation.

13 Sec. 14. Section 908.3, Code 1981, is amended to read
 14 as follows:

15 908.3 PLACE OF PROBABLE CAUSE HEARING. The probable cause
 16 hearing shall be held in the same county as in which the
 17 ~~alleged parole violator had-his-or-her-initial-appearance~~
 18 was being supervised or in the county in which the alleged
 19 parole violation occurred.

20 EXPLANATION

21 Section 1 together with section 13 provides for appointment
 22 of legal counsel for indigent persons accused of parole
 23 violations.

24 Sections 2 and 3 of the bill codify the pretrial services
 25 provided by the judicial districts' departments of correctional
 26 services and provide additional guidelines and considerations
 27 in the pretrial release decision.

28 Section 4 explains the purpose of the pre-sentence report.

29 Section 5 provides that the pre-sentence investigation
 30 report is a confidential document that shall be sealed.

31 Section 10 specifies that the court at the time of
 32 sentencing shall determine whether an inmate has had prior
 33 convictions for serious crimes and thus cannot be paroled
 34 before serving one-half of his or her maximum sentence.

35 Section 12 relates to judicial district regulations.

1 Section 14 changes the place of the probable cause hearing
2 for an alleged parole violation.

3 The bill's effective date is July 1.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act exempting certain security information of adult cor-
2 rectional institutions from public disclosure.

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

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1 Section 1. Section 68A.7, Code 1981, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. Information concerning the procedures
4 to be used to control disturbances at adult correctional
5 institutions. Such information shall also be exempt from
6 public inspection under section 17A.3. As used in this
7 subsection disturbance means a riot or a condition that can
8 reasonably be expected to cause a riot.

9 EXPLANATION

10 This bill makes confidential, unless otherwise ordered
11 by a court, information on riot control procedures at adult
12 correctional facilities. The bill also exempts this
13 information from public inspection under section 17A.3. The
14 bill takes effect July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to a system for settlement of personal prop-
2 erty claims of inmates in certain adult correctional fa-
3 cilities.

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

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1 Section 1. Section 25A.14, Code 1981, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8. A claim based upon damage to or loss
4 or destruction of personal property of an inmate, if the claim
5 is subject to the claim procedure established under sections
6 2 and 3 of this Act.

7 Sec. 2. Section 217.14, Code 1981, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. Establish by rule a procedure to consider,
10 adjust, and allow or disallow in whole or in part claims based
11 upon damage to or loss or destruction of personal property
12 of inmates of the state penitentiary, men's reformatory, Iowa
13 security medical facility, the adult correctional facility
14 at Mount Pleasant, Iowa, and the correctional release center.
15 Allowed claims shall be paid from funds appropriated to the
16 division of corrections.

17 EXPLANATION

18 This bill exempts personal property claims of inmates in
19 the listed correctional facilities from the state tort claims
20 procedure and mandates that the director of the division of
21 corrections of the department of social services establish
22 a procedure for such claims.

23 This bill becomes effective July 1 following enactment.

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PROPOSED SENATE/HOUSE FILE _____

By (Proposed Corrections Systems
Joint Subcommittee Study Bill)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to the use of chapters 663 and 663A of the Code
2 by persons convicted of, or sentenced for, a public offense.

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

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1 Section 1. Section 663A.2, Code 1981, is amended by adding
2 the following new subsection following subsection 5 and
3 renumbering the remaining subsection:

4 NEW SUBSECTION. 6. The person's reduction of sentence
5 pursuant to section 246.39 or section 246.43 has been
6 unlawfully forfeited; or

7 Sec. 2. Section 663A.2, subsection 5, Code 1981, is amended
8 to read as follows:

9 5. ~~His~~ The person's sentence has expired, ~~his~~ or probation,
10 parole, or conditional release has been unlawfully revoked,
11 or ~~he~~ the person is otherwise unlawfully held in custody or
12 other restraint; ~~or~~

13 Sec. 3. Section 663A.7, Code 1981, is amended to read
14 as follows:

15 663A.7 COURT TO HEAR APPLICATION. The application shall
16 be heard in, and before any judge of, the court in which the
17 conviction or sentence took place. However, if the applicant
18 is seeking relief under section 663A.2, subsection 6, the
19 application shall be heard in, and before any judge of the
20 court of the county in which the applicant is being confined.
21 A record of the proceedings shall be made and preserved.
22 All rules and statutes applicable in civil proceedings
23 including pretrial and discovery procedures are available
24 to the parties. The court may receive proof of affidavits,
25 depositions, oral testimony, or other evidence, and may order
26 the applicant brought before it for the hearing. If the court
27 finds in favor of the applicant, it shall enter an appropriate
28 order with respect to the conviction or sentence in the former
29 proceedings, and any supplementary orders as to rearraignment,
30 retrial, custody, bail, discharge, correction of sentence,
31 or other matters that may be necessary and proper. The court
32 shall make specific findings of fact, and state expressly
33 its conclusions of law, relating to each issue presented.
34 This order is a final judgment.

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EXPLANATION

1 This bill provides that challenges to good time or honor
2 time forfeitures be conducted pursuant to chapter 663A of
3 the Code (the post-conviction relief procedure chapter) rather
4 than chapter 663 of the Code (the habeas corpus procedure
5 chapter). The bill takes effect July 1 after enactment.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to the reduction of sentences of inmates
2 committed to the custody of the director of the division
3 of adult corrections of the department of social services.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Sections 2 through 7 of this Act are enacted
2 as a new chapter of the Code.

3 Sec. 2. NEW SECTION. CONDUCT REVIEW COMMITTEE. A conduct
4 review committee shall be established at each institution
5 under the department of social services, division of adult
6 corrections. Each committee shall consist of three members
7 who shall be appointed by the director of the division of
8 adult corrections. The committees shall review the conduct
9 of inmates in their respective institutions, as provided in
10 section 4 of this Act.

11 Sec. 3. NEW SECTION. GOOD CONDUCT TIME. Each inmate
12 of an institution under the department of social services,
13 division of adult corrections, shall be given a reduction
14 of sentence of one day for each day of good conduct while
15 committed to one of the division's institutions or while on
16 parole. Computation of good conduct time is subject to the
17 following conditions:

18 1. Time served in jail or other facility, credited by
19 the clerk of court prior to actual placement in a correctional
20 institution, shall accrue for purposes of reduction of sentence
21 under this section.

22 2. Time spent during escape shall be forfeited for purposes
23 of reduction of sentence under this section.

24 3. Time between parole violation and incarceration shall
25 be forfeited for purposes of reduction of sentence under this
26 section.

27 4. Good conduct time shall not accrue to an inmate while
28 serving a life sentence. However, good conduct time shall
29 accrue after an inmate's life sentence is commuted and shall
30 be computed as of the date of commutation, not the date of
31 commitment to custody of the director.

32 5. The maximum amount of good conduct time that can be
33 earned shall be credited to the maximum sentence at the time
34 of admission, setting a tentative discharge date, except in
35 life sentences.

1 Sec. 4. NEW SECTION. LOSS OR FORFEITURE OF GOOD CONDUCT
2 TIME. Upon finding that an inmate has violated an
3 institutional rule, the conduct review committee may recommend
4 forfeiture of any or all good conduct time earned by the
5 inmate. The good conduct review committee shall have
6 discretion within the guidelines promulgated pursuant to
7 section 5 of this Act, to determine the amount of time that
8 should be forfeited based upon the severity of the infraction.
9 Prior infractions by the inmate may be considered by the
10 committee in its decision.

11 Recommendations of the committee shall be made to the
12 superintendent or warden of the institution who may either
13 follow or reject the recommendations. A decision of the
14 superintendent or warden is subject to review by the director
15 of the division of adult corrections.

16 Sec. 5. NEW SECTION. POLICIES AND PROCEDURES. The
17 director of the division of adult corrections, department
18 of social services, shall develop policy and procedural
19 guidelines to implement sections 2 through 4 of this Act.
20 By the effective date of this Act, the director shall
21 promulgate rules specifying disciplinary offenses which may
22 result in the loss of good conduct time and the amount of
23 good conduct time which may be lost as a result of each
24 disciplinary offense.

25 Sec. 6. NEW SECTION. TIME TO BE SERVED--CREDIT. An
26 inmate shall not be discharged from the penitentiary, the
27 men's or women's reformatory, or the Iowa security medical
28 facility until the inmate has served the full term for which
29 the inmate was sentenced, less good conduct time earned and
30 not forfeited, unless the inmate is pardoned or otherwise
31 legally released. Good conduct time earned and not forfeited
32 shall apply to reduce a mandatory minimum sentence being
33 served pursuant to section 204.406, 204.413, 902.7, 902.8,
34 or 906.5. The inmate shall be deemed to be serving the
35 sentence from the day on which the inmate is received into

1 the institution. However, if an inmate was confined to a
2 county jail or other correctional or mental facility at any
3 time prior to sentencing, or after sentencing but prior to
4 the case having been decided on appeal, because of failure
5 to furnish bail or because of being charged with a nonbailable
6 offense, the inmate shall be given credit for the days already
7 served upon the term of the sentence. The clerk of the
8 district court of the county from which the inmate was
9 sentenced, shall certify to the warden the number of days
10 so served.

11 Sec. 7. NEW SECTION. SEPARATE SENTENCES. When an inmate
12 is committed under several convictions with separate sentences,
13 they shall be construed as one continuous sentence in the
14 granting or forfeiting of good conduct time.

15 Sec. 8. Section 901.6, Code 1981, is amended to read as
16 follows:

17 901.6 JUDGMENT ENTERED. If judgment is not deferred,
18 and no sufficient cause is shown why judgment should not be
19 pronounced and none appears to the court upon the record,
20 judgment shall be pronounced and entered. In every case in
21 which judgment is entered, the court shall include in the
22 judgment entry the number of the particular section of the
23 Code under which the defendant is sentenced and a statement
24 of the days credited pursuant to section 246-38 3, subsection
25 1, of this Act, shall be incorporated into the sentence.

26 Sec. 9. Sections 246.38, 246.39, 246.41, 246.42, 246.43,
27 and 246.45, Code 1981, are repealed.

28 Sec. 10. This Act takes effect October 1 following its
29 enactment.

30 Sec. 11. This Act applies to persons committed to the
31 custody of the director of the division of adult corrections,
32 department of social services, on or after its effective date.

33 It is the intent of this Act that the present practices
34 under sections 246.38, 246.39, 246.41, 246.42, and 246.43
35 as interpreted by the division of adult corrections, of

1 computing all good and honor time to residents at the time
2 of admission which advances the tentative discharge date,
3 of forfeiting good time as a result of disciplinary reports
4 resulting in solitary confinement, of denying honor time to
5 an inmate by the inmate's removal from the "honor contract"
6 and computing a new discharge date and so notifying the inmate
7 each time this occurs, shall remain in effect for all persons
8 who were committed to the custody of the director of the
9 division of adult corrections, department of social services,
10 prior to the effective date of this Act.

11 However, an inmate who was committed to the custody of
12 the director prior to the effective date of this Act, may
13 petition the director for computation of time under sections
14 2 through 7 of this Act. Time forfeited prior to the petition
15 remains forfeited.

16 EXPLANATION

17 This bill replaces the present "good and honor time"
18 sections of the Code which reduce the length of sentences
19 of inmates sentenced to the custody of the director of the
20 division of adult corrections with another system that rewards
21 good conduct of inmates.

22 An attorney general's opinion (dated November 29, 1977)
23 indicates that the current good and honor time sections of
24 the Code 246.39, 246.41, and 246.43 are presently not being
25 correctly followed with the possible exception of the honor
26 time section (special reduction section). This bill legalizes
27 the present practice of the division while codifying other
28 practices deemed desirable.

29 The bill takes effect October 1 following its passage.

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PROPOSED SENATE/HOUSE FILE _____

By (CORRECTIONS SYSTEMS JOINT
SUBCOMMITTEE BILL)

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

A BILL FOR

1 An Act relating to review by the board of parole of certain
2 offenders.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Chapter 901, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. RECOMMENDATION FOR PAROLE REVIEW. On the
4 basis of the facts and circumstances of the offense, the court
5 may recommend at the time of sentencing that a defendant,
6 other than a class "A" felon, be reviewed for parole semi-
7 annually.

8 Sec. 2. Section 906.5, unnumbered paragraph 1, Code 1981,
9 is amended to read as follows:

10 906.5 RECORD REVIEWED--ELIGIBILITY OF PRIOR FORCIBLE FELON
11 FOR PAROLE--RULES. Within one year after the commitment of
12 any person other than a class "A" felon to the custody of
13 the director of the division of adult corrections, a member
14 of the board shall interview the person. Thereafter, at
15 regular intervals, not to exceed one year, the board shall
16 interview the person and consider his or her prospects for
17 parole. Notwithstanding however, if a person is serving a
18 mandatory minimum sentence pursuant to section 204.406,
19 204.412, 902.7, 902.8, or this section, the person shall be
20 interviewed by a member of the board within one year after
21 the person's commitment to the custody of the director of
22 the division of adult corrections, and again within six months
23 before the expiration of the mandatory minimum sentence, and
24 thereafter at regular intervals not to exceed one year. When
25 the board interviews a person to consider the person's
26 prospects for parole, the board shall consider all pertinent
27 information regarding this person, including the circumstances
28 of the person's offense, any recommendations by the court,
29 any presentence report which may be available, the previous
30 social history and criminal record of such the person, the
31 person's conduct, employment and attitude in prison, and the
32 reports of such physical and mental examinations as that have
33 been made.

34 EXPLANATION

35 This bill provides that those individuals serving mandatory

1 minimum sentences shall be interviewed by the parole board
2 only at the initial interview shortly after admission to the
3 state correctional institution and not again until six months
4 before their minimum sentences will expire, and thereafter
5 at regular intervals not less than once a year. Presently
6 these persons are interviewed not less than once a year even
7 though at the time of the interview they are ineligible for
8 parole because of the mandatory minimum provisions.

9 The bill also provides that the sentencing court may
10 recommend semiannual review by the parole board on the basis
11 of the facts and circumstances of the offense.

12 The bill is effective July 1 following enactment.

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