

CHAPTER 1109**ADMINISTRATIVE LAW JUDGES***H.F. 2430*

AN ACT to designate hearing officers as administrative law judges.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 10A.101, subsection 3, Code 1987, is amended to read as follows:

3. "Administrators" means the chief hearing officer administrative law judge, chief inspector, chief investigator, and chief auditor.

Sec. 2. Section 10A.201, subsection 1, Code 1987, is amended to read as follows:

1. "Administrator" means the chief hearing officer administrative law judge, who shall coordinate the administration of this division.

Sec. 3. Section 10A.601, subsection 4, Code 1987, is amended to read as follows:

4. The appeal board may on its own motion affirm, modify, or set aside a decision of a hearing officer an administrative law judge on the basis of the evidence previously submitted in the contested case, or direct the taking of additional evidence, or may permit any of the parties to the decision to initiate further appeals before the appeal board. The appeal board shall permit further appeal by any of the parties interested in a decision of a hearing officer an administrative law judge and by the representative whose decision has been overruled or modified by the hearing officer administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

Sec. 4. Section 17A.11, Code 1987, is amended to read as follows:

17A.11 PRESIDING OFFICER — ADMINISTRATIVE HEARING OFFICERS LAW JUDGES.

1. The presiding officer in evidentiary hearings required to be conducted by an agency according to the provisions of this chapter governing contested cases shall be the agency, one or more members of a multimember agency, or an administrative hearing officer law judge appointed according to the terms of this section. Each agency needing the services of one or more permanent full-time or part-time administrative hearing officers law judges shall appoint as many of them to its staff as are necessary for this purpose. Agencies shall assign administrative hearing officers law judges to cases in rotation unless it is not feasible. Administrative hearing officers law judges shall not perform duties inconsistent with their duties and responsibilities as hearing officers administrative law judges.

2. Administrative hearing officers shall be law judges are covered by the merit system of personnel administration, chapter 19A. The department of personnel or other appropriate agency specified in section 19A.3 shall, insofar as practicable, provide for different classes of administrative hearing officers law judges with different salary scales.

3. An agency whose work load is such that the appointment of a permanent full-time or part-time administrative hearing officer law judge is unwarranted, or an agency whose work load is such that one or more additional administrative hearing officers law judges are temporarily required, may use administrative hearing officers law judges selected by the department of personnel from other agencies having hearing officers administrative law judges that are temporarily available and that are qualified to preside at the hearings held by the agency requesting the temporary use of a hearing officer an administrative law judge. In cases where an agency borrows one or more administrative hearing officers law judges from other agencies, the salaries

and expenses of those administrative ~~hearing officers~~ law judges shall be apportioned and charged to the several agencies according to their use.

Sec. 5. Section 20.6, subsection 4, Code 1987, is amended to read as follows:

4. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the board, or persons appointed or employed by the board, including ~~hearing officers~~ administrative law judges for the performance of its functions. The board may petition the district court at the seat of government or of the county ~~wherein any~~ where a hearing is held to enforce a board order compelling the attendance of witnesses and production of records.

Sec. 6. Section 20.11, subsection 2, Code 1987, is amended to read as follows:

2. The board may designate a ~~hearing officer~~ administrative law judge to conduct the hearing. ~~The hearing officer shall have such~~ administrative law judge has the powers as may be exercised by the board for conducting the hearing and shall follow the procedures adopted by the board for conducting the hearing. The decision of the ~~hearing officer~~ administrative law judge may be appealed to the board and the board may hear the case de novo or upon the record as submitted before the ~~hearing officer~~ administrative law judge, utilizing procedures governing appeals to the district court in this section so far as applicable.

Sec. 7. Section 89A.10, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by certified mail. An owner may appeal the commissioner's initial decision. The appeal shall be heard by a ~~hearing officer~~ administrative law judge of the department of inspections and appeals. An owner who, after a hearing before a ~~hearing officer~~ administrative law judge, is aggrieved by a suspension, revocation, or refusal to issue an operating permit may appeal to the employment appeal board created under section 10A.601. Notice of appeal shall be filed with the appeal board within thirty calendar days from receipt of the notice of the commissioner's action.

Sec. 8. Section 89A.10, subsection 2, unnumbered paragraph 3, Code 1987, is amended to read as follows:

No proceedings before the commissioner or the commissioner's agents, a ~~hearing officer~~ administrative law judge, the appeal board, or any district court of this state shall be deemed to deny ~~any~~ an owner an operating permit until there is a final adjudication of the matter. ~~No~~ An objection which has not been urged before the appeal board shall not be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the appeal board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, are conclusive. The appeal board's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the appeal board's orders. Upon the filing of the record with it, the jurisdiction of the court is exclusive and its judgment and decree is final, except that it is subject to review by the Iowa supreme court.

Sec. 9. Section 96.6, subsections 2 and 3, Code 1987, are amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the commissioner shall promptly notify all interested parties to the claim of its filing, and the parties have ten days

from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. However, the claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "i", and subsection 10. Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with it. If a ~~hearing officer~~ an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the ~~hearing officer~~ administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid.

3. APPEALS. Unless ~~such the~~ the appeal is withdrawn, a ~~hearing officer~~ an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the ~~hearing officer's~~ administrative law judge's decision, together with the ~~hearing officer's~~ administrative law judge's reasons ~~therefor~~ for the decision, which shall be deemed to be ~~is~~ the final decision of the division, unless within fifteen days after the date of notification or mailing of ~~such the~~ the decision, further appeal is initiated pursuant to this section.

Appeals from the initial determination shall be heard by a ~~hearing officer~~ an administrative law judge employed by the division of job service. A ~~hearing officer's~~ An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

Sec. 10. Section 96.7, subsection 3,* paragraph a, subparagraph (6), Code Supplement 1987, is amended to read as follows:

**~~(6)~~ As soon as practicable after the close of each calendar quarter, and in any event within forty days after the close of ~~such each~~ each quarter, the division shall notify each employer of the amount that has been charged to the employer's account for benefits paid during ~~such that~~ that quarter. This statement to the employer shall show the name of each claimant to whom ~~such the~~ the benefit payments were made, the claimant's social security number, and the amount of benefits paid to ~~such the~~ the claimant. ~~Any~~ An employer who has not been notified as provided

*Subsection 2 in Code Supplement 1987

**Text given is from Code 1987; does not reflect 1987 amendments in Code Supplement 1987

in section 96.6, subsection 2, of the allowance of benefits to such claimants may within thirty days after the receipt of ~~such~~ the statement appeal to the commissioner for a hearing to determine the eligibility of the claimant to receive such benefits. The commissioner shall refer the same to a ~~hearing officer~~ an administrative law judge for hearing and both the employer and the claimant shall receive notice of the time and place of ~~such~~ the hearing.

Sec. 11. Section 96.7, subsection 4, paragraph d,* unnumbered paragraph 3, Code Supplement 1987, is amended to read as follows:

******A hearing on an appeal shall be conducted according to the ~~regulations and rules promulgated~~ adopted by the division. A copy of the decision of the ~~hearing officer~~ administrative law judge shall be sent by regular mail to the last address, according to the records of the division, of each affected employing unit or employer.

Sec. 12. Section 96.11, subsection 7, paragraph f, Code Supplement 1987, is amended to read as follows:

f. An employee of the division, a ~~hearing officer~~ an administrative law judge, or a member of the appeal board who violates this section is guilty of a serious misdemeanor.

Sec. 13. Section 97B.25, Code 1987, is amended to read as follows:
97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the administrator and referred to in this chapter as a benefits deputy, shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The deputy shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal to a ~~hearing officer~~ an administrative law judge in the department of inspections and appeals, the decision is final and benefits shall be paid or denied in accord with the decision.

Sec. 14. Section 97B.26, Code 1987, is amended to read as follows:
97B.26 HEARING OFFICER ADMINISTRATIVE LAW JUDGE.

If an appeal is filed and is not withdrawn, a ~~hearing officer~~ an administrative law judge in the department of inspections and appeals, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the findings of fact and decision of the benefits deputy. The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The transcript shall then be made available for use by the employment appeal board and by the courts at subsequent judicial review proceedings under the Iowa administrative procedure Act, if any. The parties shall be duly notified of the ~~hearing officer's~~ administrative law judge's decision, together with the ~~hearing officer's~~ administrative law judge's reasons. The decision is final unless, within thirty days after the date of notification or mailing of the decision, review by the employment appeal board is initiated pursuant to section 97B.27.

Sec. 15. Section 97B.27, Code 1987, is amended to read as follows:
97B.27 REVIEW OF DECISION.

Anyone aggrieved by the decision of the ~~hearing officer~~ administrative law judge may, at any time before the ~~hearing officer's~~ administrative law judge's decision becomes final, petition the department of inspections and appeals for review by the employment appeal board

*Section 96.7(4d) in Code 1987 renumbered to §96.7(4) in Code Supplement 1987

**Text given is from Code 1987; does not reflect 1987 amendments in Code Supplement 1987

established in section 10A.601. The appeal board shall review the record made before the ~~hearing officer~~ administrative law judge, but no additional evidence shall be heard. On the basis of the record the appeal board shall affirm, modify, or reverse the decision of the ~~hearing officer~~ administrative law judge and shall determine the rights of the appellant. It shall promptly notify the appellant and any other interested party by written decision.

Sec. 16. Section 148.7, subsections 3 and 5, Code 1987, are amended to read as follows:

3. The hearing shall be before a member or members designated by the board or before ~~a hearing officer~~ an administrative law judge appointed by the board. The presiding board member or ~~hearing officer~~ administrative law judge may issue subpoenas, administer oaths and take or cause depositions to be taken in connection with the hearing. The presiding board member or ~~hearing officer~~ administrative law judge shall issue subpoenas at the request and on behalf of the licensee. The hearing shall be open to the public.

The compensation of the ~~hearing officer~~ administrative law judge shall be fixed by the medical examiners. The ~~hearing officer~~ administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The ~~hearing officer~~ administrative law judge shall prepare and file with the medical examiners the ~~hearing officer's~~ administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections and rulings of the ~~hearing officer~~ administrative law judge.

5. If a person refuses to obey a subpoena issued by the presiding member or ~~hearing officer~~ administrative law judge or to answer a proper question during the hearing, the presiding member or ~~hearing officer~~ administrative law judge may invoke the aid of a court of competent jurisdiction or judge of this court in requiring the attendance and testimony of ~~such~~ the person and the production of papers. A failure to obey ~~such~~ the order of the court may be punished by the court as a civil contempt may be punished.

Sec. 17. Section 169.5, subsection 9, paragraph e, Code 1987, is amended to read as follows:

e. Hold hearings on all matters properly brought before the board and administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. An ~~administrative hearing officer~~ administrative law judge may be appointed pursuant to section 17A.11, subsection 3 to perform those functions which properly repose in an ~~administrative hearing officer~~ administrative law judge.

Sec. 18. Section 169.14, subsections 3 and 5, Code 1987, are amended to read as follows:

3. The hearing shall be before a member or members designated by the board or before ~~a hearing officer~~ an administrative law judge appointed by the board. The presiding board member or ~~hearing officer~~ administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The member or officer shall issue subpoenas at the request and on behalf of the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or ~~hearing officer~~ administrative law judge or to answer a proper question put to that person during the hearing, the presiding member or ~~hearing officer~~ administrative law judge may invoke the aid of a court of competent jurisdiction in requiring the attendance and testimony of that person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

Sec. 19. Section 191A.7, Code 1987, is amended to read as follows:

191A.7 DISCIPLINARY ACTION.

A license issued under this chapter may be revoked by the regulatory authority for

violation by the licensee of a provision of this chapter or an applicable rule of the department. In lieu of license revocation, the regulatory authority may require the immediate discontinuance of operation of a vending machine or commissary if it finds unsanitary conditions or other conditions which constitute a substantial hazard to the public health. The order shall apply only to the vending machines, commissary, or product involved. A person whose license is revoked, or who is ordered to discontinue the operation of a vending machine or commissary, may appeal that decision to the director. The director or the chief hearing officer administrative law judge of the department shall schedule and hold a hearing upon the appeal not later than thirty days from the time of revocation or the order of discontinuance. The director or the chief hearing officer administrative law judge shall issue a decision immediately following the hearing. Judicial review may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 20. Section 272A.8, Code 1987, is amended to read as follows:

272A.8 APPOINTMENT OF HEARING OFFICERS ADMINISTRATIVE LAW JUDGES.

The commission shall maintain a list of qualified persons to serve as hearing officers administrative law judges who are experienced in the educational system of this state when a hearing is requested under the provisions of section 279.24. When requested under the provisions of section 279.24, the commission shall submit a list of five qualified hearing officers administrative law judges to the parties. The hearing shall be held pursuant to the provisions of chapter 17A relating to contested cases. The full costs of the hearing shall be shared equally by the parties. A person who is employed as a teacher or administrator by a school district shall not be eligible to serve as a hearing officer an administrative law judge.

Sec. 21. Section 279.24, unnumbered paragraphs 7, 8, 9, and 10, Code Supplement 1987, are amended to read as follows:

Within five days after receipt of the written notice that the board has voted to consider termination of the contract, the administrator may request in writing to the secretary of the board that the notification be forwarded to the professional teaching practices commission along with a request that the professional teaching practices commission submit a list of five qualified hearing officers administrative law judges to the parties. Within three days from receipt of the list the parties shall select a hearing officer an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the hearing officer administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The hearing shall be held no sooner than ten days and not later than thirty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a hearing, the board, not later than April 15, may determine the continuance or discontinuance of the contract. Board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of board action shall be personally delivered or mailed to the administrator.

The hearing officer administrative law judge selected shall notify the secretary of the board and the administrator in writing concerning the date, time, and location of the hearing. The board may be represented by a legal representative, if any, and the administrator shall appear and may be represented by counsel or by representative, if any. A transcript or recording shall be made of the proceedings at the hearing. ~~No~~ A school board member or administrator shall be is not liable for any damage to any an administrator or board member if any a statement made at the hearing is determined to be erroneous as long as the statement was made in good faith.

The hearing officer administrative law judge shall, within ten days following the date of the hearing, make a proposed decision as to whether or not the administrator should be dismissed, and shall give a copy of the proposed decision to the administrator and the school

board. Findings of fact shall be prepared by the hearing officer administrative law judge. The proposed decision of the hearing officer administrative law judge shall become the final decision of the board unless within ten days after the filing of the decision the administrator files a written notice of appeal with the board, or the board on its own motion determines to review the decision.

If the administrator appeals to the board, or if the board determines on its own motion to review the proposed decision of the hearing officer administrative law judge, a private hearing shall be held before the board within five days after the petition for review, or motion for review, has been made or at such other time as the parties may agree. The private hearing shall is not be subject to the provisions of chapter 21. The board may hear the case de novo upon the record as submitted before the hearing officer administrative law judge. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the board, an opportunity shall be afforded to each party to file exceptions, present briefs and present oral arguments to the board which is to render the final decision. The secretary of the board shall give the administrator written notice of the time, place, and date of the hearing. The board shall meet within five days after the hearing to determine the question of continuance or discontinuance of the contract. The board shall make findings of fact which shall be based solely on the evidence in the record and on matters officially noticed in the record.

Sec. 22. Section 281.6, unnumbered paragraph 3, Code 1987, is amended to read as follows:

Notwithstanding section 17A.11, the state board of education shall adopt rules for the appointment of an impartial administrative hearing officer law judge for special education appeals. The rules shall comply with federal statutes and regulations.

Sec. 23. Section 321J.13, subsection 3, Code Supplement 1987, is amended to read as follows:

3. After the hearing the department shall order that the revocation be either rescinded or sustained. ~~In the event that~~ If the revocation is sustained, the administrative hearing officer law judge who conducted the hearing has authority to may issue a temporary restricted license to the person whose motor vehicle license or operating privilege was revoked. Upon receipt of the decision of the department to sustain a revocation, the person contesting the revocation ~~shall have~~ has ten days to file a request for review of the decision by the director. The director or the director's designee shall review the decision within fifteen days and shall either rescind or sustain the revocation or order a new hearing. If the director orders a new hearing, the department shall grant the person a new hearing within thirty days of the director's order.

Sec. 24. Section 421.8A, Code 1987, is amended to read as follows:

421.8A DISPUTED ASSESSMENTS.

For any a contested case, as defined in section 17A.2, commenced on or after January 1, 1987, the person disputing the assessment must pay all tax, interest and penalty pertaining to the disputed assessment prior to the commencement of the contested case. Upon a showing of good cause, the hearing officer administrative law judge shall allow the person to post a bond in an amount established by the hearing officer administrative law judge, but not in excess of all tax, interest, and penalty, in lieu of paying all tax, interest and penalty.

The director shall adopt rules establishing procedures for payment of taxes under protest. If it is finally determined that the tax is not due in whole or in part, the department shall refund the part of the tax payment which is determined not to be due together with interest on the amount of the refund at the rate as determined under section 421.7.

Sec. 25. Section 421.17, subsection 21, paragraph e, Code Supplement 1987, is amended to read as follows:

e. Upon notice of entitlement to a refund or rebate the child support recovery unit, the foster care recovery unit, or the office of investigations shall send written notification to the debtor, and a copy of the notice to the department of revenue and finance, of the unit's or office's assertion of its rights or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application filed with the department within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the child support recovery unit, the foster care recovery unit, or the office of investigations shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer an administrative law judge and subsequent appeals shall be taken pursuant to chapter 17A.

Sec. 26. Section 421.17, subsection 23, paragraph e, Code Supplement 1987, is amended to read as follows:

e. Upon notice of entitlement to a refund or rebate, the college aid commission shall send written notification to the defaulter, and a copy of the notice to the department of revenue and finance, of the commission's assertion of its rights to all or a portion of the defaulter's refund or rebate and the entitlement to recover the amount of the default through the setoff procedure, the basis of the assertion, the defaulter's opportunity to request that a joint income tax refund or rebate be divided between spouses, the defaulter's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing before a specified date will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application, the commission shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer an administrative law judge and any subsequent appeals shall be taken pursuant to chapter 17A.

Sec. 27. Section 601A.15, subsection 3, paragraphs a, b, and c, Code 1987, are amended to read as follows:

a. After the filing of a verified complaint, a true copy shall be served within twenty days by certified mail on the person against whom the complaint is filed. An authorized member of the commission staff shall make a prompt investigation and shall issue a recommendation to a hearing officer an administrative law judge under the jurisdiction of the commission, who shall then issue a determination of probable cause or no probable cause.

b. For purposes of this chapter, a hearing officer an administrative law judge issuing a determination of probable cause or no probable cause under this section shall be is exempt from the provisions of section 17A.17.

c. If the hearing officer administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the hearing officer administrative law judge finds that no probable cause exists, the hearing officer administrative law judge shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent by certified mail. A finding of probable cause shall not be introduced into evidence in an action brought under section 601A.16.

Sec. 28. Section 601A.15, subsection 5, Code 1987, is amended to read as follows:

5. When the director is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed, and the thirty-day period

provided for in subsection 3 has expired without agreement, the director with the approval of a commissioner, shall issue and cause to be served a written notice specifying the charges in the complaint as they may have been amended and the reasons for bypassing conciliation, if the conciliation is bypassed, and requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the hearing officer administrative law judge, and at a time and place to be specified in the notice.

Sec. 29. Section 601A.16, subsection 2, Code 1987, is amended to read as follows:

2. Upon a request by the complainant, and after the expiration of one hundred twenty days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint by the hearing officer administrative law judge charged with that duty under section 601A.15, subsection 3, or a conciliation agreement has been executed under section 601A.15, or the commission has served notice of hearing upon the respondent pursuant to section 601A.15, subsection 5.

Sec. 30. Section 602.9206, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A senior judge also shall be available to serve in the capacity of administrative hearing officer law judge under chapter 17A upon the request of an agency, and the supreme court may assign a senior judge for temporary duties as a hearing officer an administrative law judge. A senior judge shall not be required to serve a period of time as a hearing officer an administrative law judge which, when added to the period of time being served by the person as a judge, if any, would exceed the maximum period of time the person agreed to serve pursuant to section 602.9203, subsection 2.

Sec. 31. Section 903A.1, Code 1987, is amended to read as follows:

903A.1 CONDUCT REVIEW.

The director of the Iowa department of corrections shall appoint independent hearing officers administrative law judges whose duties shall include but are not be limited to review, as provided in section 903A.3, of the conduct of inmates in institutions under the department.

Sec. 32. Section 903A.3, subsections 1 and 2, Code 1987, are amended to read as follows:

1. Upon finding that an inmate has violated an institutional rule, the independent hearing officer administrative law judge may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate. The independent hearing officer administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the hearing officer administrative law judge in the decision.

2. The orders of the hearing officer administrative law judge are subject to appeal to the superintendent or warden of the institution, or the superintendent's or warden's designee, who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal. A decision of the superintendent, warden, or designee is subject to review by the director of the Iowa department of corrections who may either affirm, modify, remand for correction of procedural errors, or reverse the decision. However, sanctions shall not be increased on review.

Approved April 26, 1988

CHAPTER 1110**COSMETOLOGISTS AND BARBERS***H.F. 431*

AN ACT relating to the education, practice, and supervision of cosmetologists and barbers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 157.10, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The A barber licensed under chapter 158 who enrolls in a school of cosmetology shall be granted five hundred twenty-five one thousand fifty hours credit toward the two thousand one hundred hour requirement, and the ten-month period shall does not apply. A person who has been a student in a barber school licensed under chapter 158 may enroll in a school of cosmetology and, at the option of the school of cosmetology, be granted a credit of one hour for every two hours the student attended at the barber school, up to a maximum credit of one thousand fifty hours.

Sec. 2. Section 157.12, Code 1987, is amended to read as follows:

157.12 SUPERVISORS OF COSMETOLOGISTS.

Persons A person who directly supervise supervises the work of cosmetologists shall be licensed cosmetologists either a cosmetologist licensed under this chapter or a barber licensed under section 158.3.

Sec. 3. Section 157.13, subsection 1, Code 1987, is amended to read as follows:

1. It is unlawful for ~~any~~ a person to employ an individual to practice cosmetology unless that individual is a licensed cosmetologist or has obtained a temporary permit. It is unlawful for a licensed cosmetologist to practice cosmetology with or without compensation in any place other than a licensed beauty salon ~~or~~, a licensed school of cosmetology, or a licensed barber-shop as defined in section 158.1 which has also been licensed as a beauty salon, except that a licensed cosmetologist may practice cosmetology at a location which is not a licensed beauty salon or school of cosmetology under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a licensed cosmetologist to claim to be a licensed barber, but it is lawful for a licensed cosmetologist to work in a licensed barber-shop if the same premises are also licensed as a beauty salon.

Sec. 4. Section 158.8, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A cosmetologist licensed under section 157.3 who enrolls in a barber school shall be granted five hundred twenty-five one thousand fifty hours credit toward the two thousand one hundred hour requirement, and the ten-month period shall does not apply. A person who has been a student in a school of cosmetology licensed under chapter 157 may enroll in a barber school and, at the option of the barber school, be granted a credit of one hour for every two hours the student attended at the school of cosmetology, up to a maximum credit of one thousand fifty hours.

Sec. 5. Section 158.10, Code 1987, is amended to read as follows:

158.10 SUPERVISORS OF BARBERS.

Persons A person who directly supervise supervises the work of barbers shall be licensed barbers either a barber licensed under this chapter or a cosmetologist licensed under section 157.3.

Sec. 6. Section 158.13, subsection 1, Code 1987, is amended to read as follows:

1. It is unlawful for ~~any~~ a person to employ an individual to practice barbering unless that individual is a licensed barber or has obtained a temporary permit. It is unlawful for a licensed barber to practice barbering with or without compensation in any place other than a licensed