

Sec. 51. Section 809.16, Code 1995, is amended to read as follows:  
809.16 RULEMAKING.

The attorney general ~~may~~ shall adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 52. Section 809.17, Code 1995, is amended to read as follows:  
809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

Except as provided in section 809.21, proceeds from the disposal of seized ~~or forfeited~~ property pursuant to this chapter may be transferred in whole or in part to the victim compensation fund created in section 912.14 at the discretion of the recipient agency, political subdivision, or department.

Sec. 53. Sections 809.6 through 809.14, Code 1995, are repealed.

Approved April 17, 1996

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## CHAPTER 1134

### JUVENILE AND CRIMINAL JUSTICE – MISCELLANEOUS PROVISIONS S.F. 2420

**AN ACT** relating to juvenile justice, including the use of deadly force by criminal street gangs, dispositional alternatives for juveniles adjudicated delinquent, registering with the sex offender registry, and associate juvenile judge jurisdiction.

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

Section 1. Section 232.8, subsection 1, paragraph c, Code Supplement 1995, is amended to read as follows:

c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph “e” or “f”, or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section in the same manner as regarding an adult.

Sec. 2. Section 232.52, subsection 2, paragraph d, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The chief juvenile court officer or the officer’s designee for placement in a program under section 232.191, subsection 4. The chief juvenile court officer or the officer’s designee may place a child in group foster care for failure to comply with the terms and conditions of the supervised community treatment program for up to seventy-two hours without notice to the court or for more than seventy-two hours if the court is notified of the placement within seventy-two hours of placement, subject to a hearing before the court on the placement within ten days.

Sec. 3. Section 236.8, Code Supplement 1995, is amended to read as follows:  
236.8 VIOLATION OF ORDER – CONTEMPT – PENALTIES – HEARINGS.

A person commits a simple misdemeanor or the court may hold a person in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or~~ for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or for violation by an adult of a protective order under chapter 232. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

A person shall not be convicted of and held in contempt for the same violation of an order or court-approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or~~ for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or for violation of a protective order under chapter 232.

Sec. 4. Section 236.11, unnumbered paragraphs 1 and 2, Code 1995, are amended to read as follows:

A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or any an~~ order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232. If a peace officer has reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or any an~~ order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or, if the person is an adult, a violation of a protective order under chapter 232, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or any an~~ order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

Sec. 5. Section 602.7103, subsection 2, Code 1995, is amended to read as follows:

2. The associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings, to issue warrants, nontestimonial identification orders, and contempt arrest warrants for adults in juvenile court proceedings, and to issue orders, findings, and decisions as the judge of the juvenile court, ~~except that the associate juvenile judge shall not issue warrants.~~ However, the appointing judge may limit the exercise of juvenile court jurisdiction by the associate juvenile judge.

Sec. 6. Section 665.4, subsections 2 and 3, Code 1995, are amended to read as follows:

2. Before district judges, ~~and~~ district associate judges, and associate juvenile judges by a fine not exceeding five hundred dollars or imprisonment in a county jail not exceeding six months or by both such fine and imprisonment.

3. Before judicial magistrates ~~and juvenile court referees,~~ by a fine not exceeding one hundred dollars or imprisonment in a county jail not exceeding thirty days.

Sec. 7. Section 692A.2, subsection 1, Code Supplement 1995, is amended to read as follows:

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, or a sexually violent offense shall register as provided in this chapter for a period of ten years commencing from the date of placement on probation, parole, work release, release from foster care or residential treatment, or other release from custody. A person is not required to register while incarcerated, in foster care, or in a residential treatment program. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter. If a person is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the ten years shall commence anew upon release from custody.

Sec. 8. Section 692A.5, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall do the following prior to release or sentencing of the convicted person:

Sec. 9. Section 692A.5, subsection 2, Code Supplement 1995, is amended to read as follows:

2. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall verify that the person has completed initial registration forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent, or the court shall send the initial registration information to the department within three working days of completion of the registration. Probation, parole, work release, or any other form of release after conviction shall not be granted unless the person has registered as required under this chapter.

Sec. 10. Section 723A.1, subsection 1, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Brandishing a dangerous weapon. For purposes of this paragraph:

(1) "Brandishing a dangerous weapon" means the display or exhibition of a dangerous weapon, with the intent to use, intimidate, or threaten another person without justification,

or the actual use of the dangerous weapon in a manner which is intended to or does cause serious injury or death without justification.

(2) "Dangerous weapon" means either of the following:

(a) An instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and that is capable of inflicting death upon a human being when used in the manner for which it was designed.

(b) An instrument or device of any sort whatsoever that is actually used in a manner that indicates the defendant intends to inflict death or serious injury upon another person without justification, and that, when so used, is capable of inflicting death or serious injury upon a human being.

Approved April 18, 1996

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**CHAPTER 1135**  
FINGERPRINTING REQUIREMENTS  
S.F. 2211

**AN ACT** relating to fingerprinting requirements for certain public offenses.

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

Section 1. Section 690.2, Code 1995, is amended to read as follows:

690.2 FINGER AND PALM PRINTS – PHOTOGRAPHS – DUTY OF SHERIFF AND CHIEF OF POLICE.

The sheriff of every county, and the chief of police of each city regardless of the form of government thereof, shall take the fingerprints of all unidentified dead bodies in their respective jurisdictions and all persons who are taken into custody for the commission of a serious misdemeanor, other than a serious misdemeanor under chapter 321 or 321A, aggravated misdemeanor, or felony and shall forward such fingerprint records on such forms and in such manner as may be prescribed by the commissioner of public safety, within two working days after the fingerprint records are taken, to the department of public safety and, if appropriate, to the federal bureau of investigation. Fingerprints may be taken of a person who has been arrested for a public offense subject to an enhanced penalty for conviction of a second or subsequent offense. In addition to the fingerprints as herein provided, any such officer may also take the photograph and palm prints of any such person and forward them to the department of public safety. If a defendant is convicted by a court of this state of an offense which is a serious misdemeanor, other than a serious misdemeanor under chapter 321 or 321A, aggravated misdemeanor, or felony, the court shall determine whether such defendant has previously been fingerprinted in connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be fingerprinted and those prints submitted to the department of public safety. The court shall also order that a juvenile adjudicated delinquent for an offense which would be a violation of section 321J.2 or an act which would be an aggravated misdemeanor or felony if committed by an adult be fingerprinted and the prints submitted to the department of public safety if the juvenile has not previously been fingerprinted in proceedings leading to the adjudication.

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