

CHAPTER 64
ABANDONED PROPERTY AND
PROPERTY PRESUMED ABANDONED

S.F. 180

AN ACT relating to the procedures for handling abandoned property and property presumed to be abandoned.

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

Section 1. Section 556.11, subsection 2, paragraphs a and c, Code 2003, are amended to read as follows:

a. Except with respect to traveler's checks and, money orders, cashier's checks, official checks, or similar instruments, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of ~~twenty-five~~ fifty dollars or more presumed abandoned under this chapter.

c. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ~~twenty-five~~ fifty dollars each may be reported in aggregate.

Sec. 2. Section 556.11, subsection 5, Code 2003, is amended to read as follows:

5. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. A holder is not required to make a due diligence mailing to owners whose property has an aggregate value of less than fifty dollars. The treasurer of state may charge a holder that fails to timely exercise due diligence, as required in this subsection, five dollars for each name and address account reported if thirty-five percent of¹ more of the accounts are claimed within the twenty-four months immediately following the filing of the holder report.

Sec. 3. Section 556.11, Code 2003, is amended by adding the following new subsection after subsection 8:

NEW SUBSECTION. 9. Other than the notice to owners required by subsection 5, published notice required by section 556.12, subsection 1, and other discretionary means employed by the treasurer of state for notifying owners of the existence of abandoned property, all information provided in reports shall be confidential, unless written consent from the person entitled to the property is obtained by the treasurer of state, and may be disclosed only to governmental agencies for the purposes of returning abandoned property to its owners or to those individuals who appear to be the owner of the property or otherwise have a valid claim to the property.

Sec. 4. Section 556.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

10. All agreements to pay compensation to recover or assist in the recovery of property reported under this section, made within twenty-four months after the date payment or delivery is made under section 556.13 are unenforceable. However, such agreements made after twenty-four months from the date of payment or delivery are valid if the fee or compensation agreed upon is not more than fifteen percent of the recoverable property, the agreement is in writing and signed by the owner, and the writing discloses the nature and value of the property and the name and address of the person in possession. A person shall not attempt to collect or collect a fee or compensation for discovering property presumed abandoned under this

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §40 herein

chapter unless the person is licensed as a private investigation business pursuant to chapter 80A. This section does not prevent an owner from asserting, at any time, that an agreement to locate property is based upon excessive or unjust consideration. This section does not apply to an owner who has a bona fide fee contract with a practicing attorney and counselor as described in chapter 602, article 10.

Sec. 5. Section 556.12, subsection 2, paragraph c, Code 2003, is amended by striking the paragraph.

Sec. 6. Section 556.12, subsections 3, 4, 5, and 6, Code 2003, are amended to read as follows:

3. The state treasurer of state is not required to publish in such notice any item of less than ~~twenty-five~~ fifty dollars unless the treasurer deems ~~such the~~ publication to be in the public interest.

4. Within one hundred twenty days from the receipt of the report required by section 556.11, the state treasurer of state shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of ~~twenty-five~~ fifty dollars or more presumed abandoned under this chapter.

5. The mailed notice shall contain:

a. ~~A~~ a statement that, according to a report filed with the state treasurer of state, property is being held to which the addressee appears entitled.

b. The name and address of the person holding the property and any necessary information regarding ~~changes of name and address of the holder.~~

c. ~~A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the state treasurer to whom all further claims must be directed.~~

6. This section is not applicable to sums payable on traveler's checks, ~~or~~ money orders, cashier's checks, official checks, or similar instruments presumed abandoned under section 556.2.

Sec. 7. Section 556.17, subsections 1 and 5, Code 2003, are amended to read as follows:

1. All abandoned property other than money delivered to the state treasurer of state under this chapter which remains unclaimed one year after the delivery to the treasurer may be sold to the highest bidder at public sale in any city in the state that affords in the treasurer's judgment the most favorable market for the property involved. The state treasurer of state may decline the highest bid and reoffer the property for sale if the treasurer considers the price bid insufficient. The treasurer need not offer any property for sale if, in the treasurer's opinion, the probable cost of sale exceeds the value of the property. The treasurer may order destruction of the property when the treasurer has determined that the probable cost of offering the property for sale exceeds the value of the property. If the treasurer determines that the property delivered does not have any substantial commercial value, the treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the treasurer or any officer or against the holder for or on account of an act the treasurer made under this section, except for intentional misconduct or malfeasance.

5. Unless the treasurer of state considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under section 556.5 and delivered to the treasurer of state must be held for at least ~~three years~~ one year before the treasurer of state may sell them. If the treasurer of state sells any securities delivered pursuant to section 556.5 before the expiration of the ~~three-year~~ one-year period, any person making a claim pursuant to this chapter before the end of the ~~three-year~~ one-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to section 556.18, subsection 2. A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the treasurer of state by the holder, if they still remain in the

hands of the treasurer of state, or the proceeds received from the sale, less any amounts deducted pursuant to section 556.18, subsection 2, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the treasurer of state.

Approved April 25, 2003

CHAPTER 65

SEXUAL EXPLOITATION OF A MINOR

S.F. 221

AN ACT relating to the criminal offense of sexual exploitation of a minor.

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

Section 1. Section 728.12, subsections 1 and 2, Code 2003, are amended to read as follows:

1. It shall be unlawful to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system. A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor ~~or what appears to be a minor~~ engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class "D" felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

Sec. 2. Section 728.12, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

It shall be unlawful to knowingly purchase or possess a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or an electronic, magnetic, or optical storage system, or any other type of storage system which depicts a minor ~~or what appears to be a minor~~ engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

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